SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951

No. 395

RICHFIELD OIL CORPORATION, APPELLANT,

vs.

THE UNITED STATES OF AMERICA

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

VOL. II

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Government Exhibit 1

RICHFIELD OIL CORPORATION
SERVICE STATION LEASE

THIS LEASE made and entered into this ..... day of ....., 19....,

by and between RICHFIELD OIL CORPORATION, hereinafter referred to as "Lessor", and .....

....., hereinafter referred to as "Lessee".

WITNESSETH:

DESCRIPTION OF PROPERTY

That in consideration of the payment of the rents and the performance of the covenants and agreements herein set forth to be kept and performed on the part of Lessee, Lessor does hereby lease to Lessee that certain real property situated in the City of ....., County of ....., State of ....., more particularly described in paragraph "1" of Schedule "A" hereof, together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated thereon as are fully described in said Schedule "A".

TERM

TO HAVE AND TO HOLD unto Lessee for the period commencing .....,

19 , and continuing until terminated by either party on the day of .....

or the day of of any calendar year by means of a written notice of election to terminate served on the other party in the manner herein prescribed in Paragraph "13" hereof at least thirty days prior to the effective date of termination therein specified.

It is further agreed:

RENT

1. Lessee shall pay to Lessor as rent for the premises and property leased hereunder the following sums per month:

January	$	May	$	September	$
February	$	June	$	October	$
March	$	July	$	November	$
April	$	August	$	December	$

All such rentals shall be payable monthly in advance on the first day of the calendar month. Rent for any fractional part of a month shall be duly prorated on the basis of the rent for said month as hereinabove specified. In addition to the aforesaid rental, Lessee shall pay to Lessor as rental for each month of the effective term hereof a sum computed by multiplying the total number of gallons of gasoline in excess of the number of gallons set forth below, delivered to the demised premises during the month for which payment is being made, for resale and distribution therefrom, by the rates following, to-wit:

For the month of January	¢ per gallon of gasoline in excess of	gallons
For the month of February	¢ per gallon of gasoline in excess of	gallons
For the month of March	¢ per gallon of gasoline in excess of	gallons
For the month of April	¢ per gallon of gasoline in excess of	gallons
For the month of May	¢ per gallon of gasoline in excess of	gallons
For the month of June	¢ per gallon of gasoline in excess of	gallons
For the month of July	¢ per gallon of gasoline in excess of	gallons
For the month of August	¢ per gallon of gasoline in excess of	gallons
For the month of September	¢ per gallon of gasoline in excess of	gallons
For the month of October	¢ per gallon of gasoline in excess of	gallons
For the month of November	¢ per gallon of gasoline in excess of	gallons
For the month of December	¢ per gallon of gasoline in excess of	gallons

said payments to be made on or before the tenth day of the next succeeding calendar month. Anything to the contrary in this paragraph contained notwithstanding, the rentals payable for the period commencing ....., 19 and ending ....., 19 , shall be $ ..... per month and no more. Lessee agrees that upon demand of Lessor, he will deposit cash or post a bond as security for the payment of rent hereunder, in an amount equal to the estimated average monthly rent payable hereunder.

USE

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum products upon the demised premises or the operation of a gasoline service station thereon is prevented by law or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon, is taken for public use, this lease shall forthwith terminate.

MAINTENANCE

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, fixtures and equipment in good order and repair and in a clean and safe condition. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make the necessary repairs for the account of Lessee and/or may terminate this lease. Lessee shall make no change, alteration or substitution in the demised premises, improvements, buildings, fixtures and equipment except such as may be necessary to enable Lessee to continue business on said premises, unless the consent in writing of Lessor be first obtained.

REDELIVERY

4. Upon the expiration or sooner termination of this agreement, Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and depreciation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair.

ACT OF GOD

5. Should any of the improvements on the demised premises be destroyed by act of God, fire, explosion, the elements or any cause not due to the negligence, neglect or willful act of Lessee and be thereby rendered unsatisfactory for the conduct of Lessee's business thereon, Lessor shall be privileged to terminate this lease or repair the premises in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

UTILITIES

6. During the occupancy of the demised premises, Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any liens to attach to the demised premises. Upon failure of Lessee in this respect, Lessor may, but shall not be obligated to, pay such charges and add the same to the rental payable hereunder.

DEFAULT

7. Should Lessee at any time fail to faithfully and diligently comply with the terms, conditions and covenants of this lease on his part to be performed, or should Lessee abandon or vacate the demised premises, or should Lessee default in payment of rent at the time due, or should bankruptcy or insolvency proceedings under the bankruptcy laws of the United States or any state be instituted by or against Lessee, or should any attachment, garnishment, execution or any other legal proceeding be levied or instituted by anyone other than Lessor against the premises or any of the equipment thereon in any action in which Lessee is named as defendant, or should Lessee attempt to sell, assign, pledge or mortgage the said premises or any part thereof, or allow any lien to attach thereto, or should Lessee enter into a composition for the benefit of creditors, Lessor may, without notice, immediately terminate this lease and re-enter and resume possession of the premises, improvements, buildings, fixtures and equipment.

WAIVER

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

ASSIGNMENT

9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sublet any part of the demised premises without the written consent of Lessor first having been obtained. This lease shall not become an asset of the estate of Lessee but shall terminate on his death.

INDEMNITY

10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occurring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees, thereon or thereabout during the term hereof.

PRIOR LEASES

11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all the terms, provisions and conditions contained in that certain lease dated the ..... day of ....., 19....., by and between ....., as lessor, and ....., whose interest Lessor herein has succeeded). The relinquishment, expiration or sooner termination of said lease shall of itself result in the termination of this lease without notice and without liability on the part of Lessor herein. Lessor herein shall be privileged to amend, modify or extend the above described lease without notice to Lessee herein in which event this lease shall become subject to the terms, provisions and conditions of said lease as modified, amended or extended.

ATTORNEY'S FEES

12. In the event Lessor shall employ an attorney or attorneys in connection with the pursuit of any of Lessor's rights, powers or privileges hereunder, Lessee shall pay, in addition to all other sums hereunder, a reasonable attorney's fee.

NOTICES

13. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises, or to Lessee at 555 South Flower Street, Los Angeles, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

OTHER AGREEMENTS

14. From the effective date of commencement hereof, this lease terminates and supersedes any lease or other agreement between Lessee and Lessor, or the predecessors of Lessor, under the terms of which Lessee was privileged to occupy the demised premises.

EXECUTION

15. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof delivered to Lessee.

IN WITNESS WHEREOF, the parties have executed these premises as of the date hereinabove written.

RICHFIELD OIL CORPORATION

By .....

.....
Lessor

.....
Lessee

Government Exhibit 1-A

RICHFIELD OIL CORPORATION
SERVICE STATION LEASE

THIS LEASE made and entered into this.....day of....., 19....., by and between RICHFIELD OIL CORPORATION, hereinafter referred to as "Lessor", and....., hereinafter referred to as "Lessee",

WITNESSETH:

DESCRIPTION OF PROPERTY

That in consideration of the payment of the rents and the performance of the covenants and agreements herein set forth to be kept and performed on the part of Lessee, Lessor does hereby lease to Lessee that certain real property situated in the City of....., County of....., State of....., more particularly described in paragraph "1" of Schedule "A" hereof, together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated thereon as are fully described in said Schedule "A".

TO HAVE AND TO HOLD unto Lessee for the period commencing..... 19....., and continuing until terminated by either party on the.....day of..... or the.....day of.....of any calendar year by means of a written notice of election to terminate served on the other party in the manner herein prescribed in Paragraph "13" hereof at least thirty days prior to the effective date of termination therein specified.

It is further agreed:

1. Lessee shall pay to Lessor as rent for the premises and property leased hereunder the following sums per month:

January	$.....	May	$.....	September	$.....
February	$.....	June	$.....	October	$.....
March	$.....	July	$.....	November	$.....
April	$.....	August	$.....	December	$.....

All such rentals shall be payable monthly in advance on the first day of the calendar month. Rent for any fractional part of a month shall be duly prorated on the basis of the rent for said month as hereinabove specified. In addition to the aforesaid rental, Lessee shall pay to Lessor as rental for each month of the effective term hereof a sum computed by multiplying the total number of gallons of gasoline in excess of the number of gallons set forth below, received by Lessee on the demised premises during the month for which payment is being made, for resale and distribution therefrom, by the rates following, to-wit:

For the month of January.....¢ per gallon of gasoline in excess of.....gallons
For the month of February.....¢ per gallon of gasoline in excess of.....gallons
For the month of March.....¢ per gallon of gasoline in excess of.....gallons
For the month of April.....¢ per gallon of gasoline in excess of.....gallons
For the month of May.....¢ per gallon of gasoline in excess of.....gallons
For the month of June.....¢ per gallon of gasoline in excess of.....gallons
For the month of July.....¢ per gallon of gasoline in excess of.....gallons
For the month of August.....¢ per gallon of gasoline in excess of.....gallons
For the month of September.....¢ per gallon of gasoline in excess of.....gallons
For the month of October.....¢ per gallon of gasoline in excess of.....gallons
For the month of November.....¢ per gallon of gasoline in excess of.....gallons
For the month of December.....¢ per gallon of gasoline in excess of.....gallons

said payments to be made on or before the tenth day of the next succeeding calendar month. Anything to the contrary in this paragraph contained notwithstanding, the rentals payable for the period commencing....., 19....., and ending....., 19....., shall be $.....per month and no more. Lessee agrees that upon demand of Lessor, he will deposit cash or post a bond as security for the payment of rent hereunder, in an amount equal to the estimated average monthly rent payable hereunder.

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose, keeping the same at all times adequately supplied with the usual grades of gasoline and lubricants and open for business during the customary business hours; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum products upon the demised premises or the operation of a gasoline service station thereon is prevented by law or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon, is taken for public use, this lease shall forthwith terminate.

ENHANCE

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, fixtures and equipment in good order and repair and in a clean and safe condition. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make the necessary repairs for the account of Lessee and/or may terminate this lease. Lessee shall make no change, alteration or substitution in the demised premises, improvements, buildings, fixtures and equipment except such as may be necessary to enable Lessee to continue business on said premises, unless the consent in writing of Lessor be first obtained.

REDELIVERY

4. Upon the expiration or sooner termination of this agreement, Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and depreciation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair.

ACT OF GOD

5. Should any of the improvements on the demised premises be destroyed by act of God, fire, explosion, the elements or any cause not due to the negligence, neglect or willful act of Lessee and be thereby rendered unsatisfactory for the conduct of Lessee's business thereon, Lessor shall be privileged to terminate this lease or repair the premises in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

UTILITIES

6. During the occupancy of the demised premises, Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any liens to attach to the demised premises. Upon failure of Lessee in this respect, Lessor may, but shall not be obligated to, pay such charges and add the same to the rental payable hereunder.

DEFAULT

7. Should Lessee at any time fail to faithfully and diligently comply with the terms, conditions and covenants of this lease on his part to be performed, or should Lessee abandon or vacate the demised premises, or should Lessee default in payment of rent at the time due, or should bankruptcy or insolvency proceedings under the bankruptcy laws of the United States or any state be instituted by or against Lessee, or should any attachment, garnishment, execution or any other legal proceeding be levied or instituted by anyone other than Lessor against the premises or any of the equipment thereon in any action in which Lessee is named as defendant, or should Lessee attempt to sell, assign, pledge or mortgage the said premises or any part thereof, or allow any lien to attach thereto, or should Lessee enter into a composition for the benefit of creditors, Lessor may, without notice, immediately terminate this lease and re-enter and resume possession of the premises, improvements, buildings, fixtures and equipment.

WAIVER

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

ASSIGNMENT

9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sublet any part of the demised premises without the written consent of Lessor first having been obtained. This lease shall not become an asset of the estate of Lessee but shall terminate on his death.

INDEMNITY

10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occurring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees, thereon, or thereabout during the term hereof.

PRIOR LEASES

11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all terms, provisions and conditions contained in that certain lease dated the.....day of....., 19....., by and between ....., as lessor, and ....., as lessee (in whose interest Lessor herein has succeeded). The relinquishment, expiration or sooner termination of said lease shall of itself result in the termination of this lease without notice and without liability on the part of Lessor herein. Lessor herein shall be privileged to amend, modify or extend the above described lease without notice to Lessee herein in which event this lease shall become subject to the terms, provisions and conditions of said lease as modified, amended or extended. Lessor makes no warranty that the aforesaid lease will not by its terms expire, or is not subject to termination prior to the earliest termination date herein provided.

ATTORNEY'S FEES

12. In the event Lessor shall employ an attorney or attorneys in connection with the pursuit of any of Lessor's rights, powers or privileges hereunder, Lessee shall pay, in addition to all other sums hereunder, a reasonable attorney's fee.

NOTICES

13. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises, or to Lessor at 555 South Flower Street, Los Angeles, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

OTHER AGREEMENTS

14. From the effective date of commencement hereof, this lease terminates and supersedes any lease or other agreement between Lessee and Lessor, or the predecessors of Lessor, under the terms of which Lessee was privileged to occupy the demised premises.

EXECUTION

15. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof, delivered to Lessee. It is agreed that the execution hereof has not been induced by any representation, warranty or agreement other than those herein expressed; and the terms hereof shall not be amended or varied except by a subsequent written instrument executed by the parties.

IN WITNESS WHEREOF, the parties have executed these premises as of the date hereinabove written.

RICHFIELD OIL CORPORATION

By.....

.....
LESSOR

.....
LESSEE

Government Exhibit 1-B

RICHFIELD OIL CORPORATION
SERVICE STATION LEASE

THIS LEASE made and entered into this 24 day of June, 19 43, by and between RICHFIELD OIL CORPORATION, hereinafter referred to as "Lessor", and Dudley C. Smith, hereinafter referred to as "Lessee",

WITNESSETH:

DESCRIPTION OF PROPERTY

That in consideration of the payment of the rents and the performance of the covenants and agreements herein set forth to be kept and performed on the part of Lessee, Lessor does hereby lease to Lessee that certain real property situated in the City of San Bernardino, County of San Bernardino, State of California, together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated thereon, all as are fully described in Schedule "A" hereof.

TERM

TO HAVE AND TO HOLD unto Lessee for the period commencing June 24th, 1943, and continuing until terminated by either party by means of a written notice of election to terminate served on the other party in the manner prescribed in Paragraph "14" hereof at least twenty-four hours prior to the effective date of termination specified in such notice.

It is further agreed:

RENT

1. Lessee shall pay to Lessor as rent for the premises and property leased hereunder the following sums per month:

January	$ 00.00	May	$ 00.00	September	$ 00.00
February	$ 00.00	June	$ 00.00	October	$ 00.00
March	$ 00.00	July	$ 00.00	November	$ 00.00
April	$ 00.00	August	$ 00.00	December	$ 00.00

All such rentals shall be payable monthly in advance on the first day of the calendar month. Rent for any fractional part of a month shall be duly prorated on the basis of the rent for said month as herein specified. In addition to the aforesaid rental, Lessee shall pay to Lessor as rental for each month of the effective term hereof a sum computed by multiplying the total number of gallons of gasoline in excess of the number of gallons set forth below, received by Lessee on the demised premises during the month for which payment is being made, for resale and distribution therefrom, by the rates following, to-wit:

For the month of January	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of February	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of March	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of April	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of May	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of June	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of July	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of August	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of September	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of October	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of November	1	¢ per gallon of gasoline in excess of	0000 gallons
For the month of December	1	¢ per gallon of gasoline in excess of	0000 gallons

said payments to be made on or before the tenth day of the next succeeding calendar month. In case of fractional monthly periods the number of gallons shown in the last column above will be duly prorated and the gallonage rental will be paid on the gallons of gasoline delivered in excess of such prorated amount.

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose, keeping the same at all times adequately supplied with the usual grades of gasoline and lubricants and open for business during the hours hereinafter specified; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum products upon the demised premises or the operation of a gasoline service station thereon is prevented by law or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon, is taken for public use, this lease shall forthwith terminate.

MAINTENANCE

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, trees, shrubs, lawns, fixtures and equipment in good order and repair and in a clean and safe condition. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make the necessary repairs for the account of Lessee and/or may terminate this lease. Lessee shall make no change, alteration or substitution in the demised premises, improvements, buildings, fixtures and equipment except such as may be necessary to enable Lessee to continue business on said premises, unless the consent in writing of Lessor be first obtained.

244

REDELIVERY

4. Upon the expiration or sooner termination of this agreement, Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and depreciation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair.

ACT OF GOD

5. Should any of the improvements on the demised premises be destroyed by act of God, fire, explosion, the elements or any cause not due to the negligence, neglect or willful act of Lessee and be thereby rendered unsatisfactory for the conduct of Lessee's business thereon, Lessee shall be privileged to terminate this lease or repair the premises in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

UTILITIES

6. During the occupancy of the demised premises, Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any lien to attach to the demised premises. Upon failure of Lessee in this respect, Lessor may, but shall not be obligated to, pay such charges and lien obligations, and add the same to the rental payable hereunder.

DEFAULT

7. Should Lessee at any time fail to faithfully and diligently comply with the terms, conditions and covenants of this lease on his part to be performed, or should Lessee abandon or vacate the demised premises, or should Lessee default in payment of rent at the time due, or should bankruptcy or insolvency proceedings under the bankruptcy laws of the United States or any state be instituted by or against Lessee, or should any attachment, garnishment, execution or any other legal proceeding be levied or instituted by anyone other than Lessor against the premises or any of the equipment thereon in any action in which Lessee is named as defendant, or should Lessee attempt to sell, assign, pledge or mortgage the said premises or any part thereof, or allow any lien to attach thereto, or should Lessee enter into a composition for the benefit of creditors, Lessor may, without notice, immediately terminate this lease and re-enter and resume possession of the premises, improvements, buildings, fixtures and equipment.

WAIVER

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

ASSIGNMENT

9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sublet any part of the demised premises without the written consent of Lessor first having been obtained. This lease shall not become an asset of the estate of Lessee but shall terminate on his death. In the event there are more than one Lessee the interest of any deceased Lessee shall pass to his survivors.

INDEMNITY

10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occurring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees, thereon, or thereabout during the term hereof.

PRIOR LEASES

11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all terms, provisions and conditions contained in that certain lease dated the 28 day of March, 1932, by and between Margaret Salt [redacted], as lessor, and Richfield Stations Inc. [redacted], as lessee (to whose interest Lessor herein has succeeded). The relinquishment, expiration or sooner termination of said lease shall of itself result in the termination of this lease without notice and without liability on the part of Lessor herein, and Lessor shall be privileged to terminate this lease forthwith by notice of a time not exceeding 10 days prior to the termination, relinquishment, or expiration of the above lease so as to permit Lessee to remove its property from the demised premises. Lessor herein shall be privileged to amend, modify or extend the above described lease without notice to Lessee herein in which event this lease shall become subject to the terms, provisions and conditions of said lease as modified, amended or extended. Lessor makes no warranty that the aforesaid lease will not by its terms expire, or is not subject to termination prior to the earliest termination date herein provided.

OPERATION

12. It being understood that the amount of rent payable to Lessor is governed by the number of gallons of gasoline handled on the premises Lessee agrees, for the purpose of producing a maximum of for Lessor, that (1) The service station shall be kept open for business during the hours from [redacted] A.M. to 10:00 P.M. from Mondays to Saturdays inclusive and from 6:00 A.M. to 10:00 P.M. on Sunday, (2) all floodlights shall be lit with 1000 watt lamps from sunset to the closing hours above designated, (3) rest rooms shall be kept in a clean and neat condition and equipped with the necessary articles, (4) the service station business shall be conducted through a sufficient number of trained operators.

ATTORNEY'S FEES

13. In the event Lessor shall employ an attorney or attorneys in connection with the pursuit of any of Lessor's rights, powers or privileges hereunder, Lessee shall pay, in addition to all other sums hereunder, a reasonable attorney's fee.

NOTICES

14. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises, or to Lessor at 646 South Flower Street, Los Angeles, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

OTHER AGREEMENTS

15. From the effective date of commencement hereof, this lease terminates and supersedes any lease or other agreement between Lessee and Lessor, or the predecessors of Lessor, under the terms of which Lessee was privileged to occupy the demised premises.

EXECUTION

16. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof delivered to Lessee. It is agreed that the execution hereof has not been induced by any representation, warranty or agreement other than those herein expressed; and the terms hereof shall not be amended or varied except by a subsequent written instrument executed by the parties.

IN WITNESS WHEREOF, the parties have executed these premises as of the date hereinabove written.

RICHFIELD OIL CORPORATION

By [redacted]

Dudley C. Smith

LESSEE

[redacted]

LESSEE'S ADDRESS OF LESSEE

Government Exhibit 1-C

Form 565-D REV 5-43

This rider is to be attached to that ...ailable Service Station Lease, Form 565, made and ...ntered into the 11th day of June, 1943, between Richfield Oil Corporation, as "Lessee," and Mr. A. Gray, as "Lessor," by which was leased the service station premises commonly known as NE Cor. 4th Avenue & California Street, in the City of San Francisco, County of San Francisco, State of California.

It is agreed that effective the 1st day of April, 1944, paragraph numbered "1" of said lease, which paragraph is entitled "RENT," shall be stricken therefrom and a new paragraph "1" reading as follows inserted instead and in lieu thereof:

"Lessee shall pay to Lessor as rent for the premises and property leased hereunder the following sums per month:

January	$ 80.00	May	$ 80.00	September	$ 80.00
February	$ 80.00	June	$ 80.00	October	$ 80.00
March	$ 80.00	July	$ 80.00	November	$ 80.00
April	$ 80.00	August	$ 80.00	December	$ 80.00

All such rentals shall be payable monthly in advance on the first day of the calendar month. Rent for any fractional part of a month shall be duly prorated on the basis of the rent for said month as herein specified. In addition to the aforesaid rental, Lessee shall pay to Lessor as rental for each month of the effective term hereof a sum computed by multiplying the total number of gallons of gasoline in excess of the number of gallons set forth below, received by Lessee on the demised premises during the month for which payment is being made, for resale and distribution therefrom, by the rates following, to-wit:

For the month of January	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of February	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of March	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of April	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of May	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of June	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of July	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of August	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of September	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of October	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of November	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons
For the month of December	1	¢ per gallon of gasoline in excess of	6,000 [redacted] gallons

said payments to be made on or before the tenth day of the next succeeding calendar month. In case of fractional monthly periods the number of gallons shown in the last column above will be duly prorated and the gallonage rental will be paid on the gallons of gasoline delivered in excess of such prorated amount."

Executed this 14th day of March, 1944

RICHFIELD OIL CORPORATION

By P. S. Payne
Vice Division Manager

L. A. Gray
(Lessor) (Mr. A. Gray)

16-512 SF

559

Government Exhibit 1-D

RICHFIELD OIL CORPORATION
SERVICE STATION LEASE

THIS LEASE made and entered into this ..... day of ....., 19....,

by and between RICHFIELD OIL CORPORATION, hereinafter referred to as "Lessor", and .....

....., hereinafter referred to as "Lessee",

WITNESSETH:

DESCRIPTION OF PROPERTY

That in consideration of the payment of the rents and the performance of the covenants and agreements herein set forth to be kept and performed on the part of Lessee, Lessor does hereby lease to Lessee that certain real property situated in the City of ....., County of ....., State of ....., together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated thereon, all as are fully described in Schedule "A" hereof.

TERM

TO HAVE AND TO HOLD unto Lessee for the period commencing ....., 19....., and continuing until terminated by either party by means of a written notice of election to terminate served on the other party in the manner prescribed in Paragraph "14" hereof at least twenty-four hours prior to the effective date of termination specified in such notice.

It is further agreed:

RENT

1. Lessee shall pay to Lessor as rent for the premises and property leased hereunder the following sums per month:

January	$	May	$	September	$ .....
February	$	June	$	October	$ .....
March	$	July	$	November	$ .....
April	$	August	$	December	$ .....

All such rentals shall be payable monthly in advance on the first day of the calendar month. Rent for any fractional part of a month shall be duly prorated on the basis of the rent for said month as herein specified. In addition to the aforesaid rental, Lessee shall pay to Lessor as rental for each month of the effective term hereof a sum computed by multiplying the total number of gallons of gasoline in excess of the number of gallons set forth below, received by Lessee on the demised premises during the month for which payment is being made, for resale and distribution therefrom, by the rates following, to-wit:

For the month of January	¢ per gallon of gasoline in excess of	gallons
For the month of February	¢ per gallon of gasoline in excess of	gallons
For the month of March	¢ per gallon of gasoline in excess of	gallons
For the month of April	¢ per gallon of gasoline in excess of	gallons
For the month of May	¢ per gallon of gasoline in excess of	gallons
For the month of June	¢ per gallon of gasoline in excess of	gallons
For the month of July	¢ per gallon of gasoline in excess of	gallons
For the month of August	¢ per gallon of gasoline in excess of	gallons
For the month of September	¢ per gallon of gasoline in excess of	gallons
For the month of October	¢ per gallon of gasoline in excess of	gallons
For the month of November	¢ per gallon of gasoline in excess of	gallons
For the month of December	¢ per gallon of gasoline in excess of	gallons

said payments to be made on or before the tenth day of the next succeeding calendar month. In case of fractional monthly periods the number of gallons shown in the last column above will be duly prorated and the gallonage rental will be paid on the gallons of gasoline delivered in excess of such prorated amount.

USE

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum products upon the demised premises or the operation of a gasoline service station thereon is prevented by law or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon, is taken for public use, this lease shall forthwith terminate.

MAINTENANCE

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, trees, shrubs, lawns, fixtures and equipment in good order and repair and in a clean and safe condition. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make the necessary repairs for the account of Lessee and/or may terminate this lease. Lessee shall make no material change or alteration in the demised premises, improvements, buildings, fixtures and equipment except such as may be necessary to enable Lessee to continue business on said premises, unless the consent in writing of Lessor be first obtained.

REDELIVERY

4. Upon the expiration or sooner termination of this agreement, Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and depreciation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair.

ACT OF GOD

5. Should any of the improvements on the demised premises be destroyed by act of God, fire, explosion, the elements or any cause not due to the negligence, neglect or willful act of Lessee and be thereby rendered unsatisfactory for the conduct of Lessee's business thereon, Lessee shall be privileged to terminate this lease or repair the premises in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

UTILITIES

6. During the occupancy of the demised premises, Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any liens to attach to the demised premises. Upon failure of Lessee in this respect, Lessor may, but shall not be obliged to, pay such charges and lien obligations, and add the same to the rental payable hereunder.

DEFAULT

7. Should Lessee at any time fail to faithfully and diligently comply with the terms, conditions and covenants of this lease on his part to be performed, or should Lessee abandon or vacate the demised premises, or should Lessee default in payment of rent at the time due, or should bankruptcy or insolvency proceedings under the bankruptcy laws of the United States or any state be instituted by or against Lessee, or should any attachment, garnishment, execution or any other legal proceeding be levied or instituted by anyone other than Lessor against the premises or any of the equipment thereon in any action in which Lessee is named as defendant, or should Lessee attempt to sell, assign, pledge or mortgage the said premises or any part thereof, or allow any lien to attach thereto, or should Lessee enter into a composition for the benefit of creditors, Lessor may, without notice, immediately terminate this lease and re-enter and resume possession of the premises, improvements, buildings, fixtures and equipment.

WAIVER

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

ASSIGNMENT

9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sublet any part of the demised premises without the written consent of Lessor first having been obtained.

INDEMNITY

10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occurring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees, thereon, or thereabout during the term hereof.

PRIOR LEASES

11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all terms, provisions and conditions contained in that certain lease dated the.....day of....., 19....., by and between ....., as lessor, and ....., as lessee (to whose interest Lessor herein has succeeded). The relinquishment, expiration or sooner termination of said lease shall of itself result in the termination of this lease without notice and without liability on the part of Lessor herein, and Lessee shall be privileged to terminate this lease forthwith by notice at a time not exceeding 10 days prior to the termination, relinquishment, or expiration of the above lease so as to permit Lessor to remove its property from the demised premises. Lessor herein shall be privileged to amend, modify or extend the above described lease without notice to Lessee herein in which event this lease shall become subject to the terms, provisions and conditions of said lease as modified, amended or extended. Lessor makes no warranty that the aforesaid lease will not by its terms expire, or is not subject to termination prior to the earliest termination date herein provided.

OPERATION

12. It being understood that the amount of rent payable to Lessor is governed by the number of gallons of gasoline handled on the premises Lessee agrees, for the purpose of producing a maximum rent for Lessor, that (1) the rest rooms shall be kept in a clean and neat condition and equipped with the necessary articles, (2) the service station business shall be conducted through a sufficient number of trained operators.

ATTORNEY'S FEES

13. In the event Lessor shall employ an attorney or attorneys in connection with the pursuit of any of Lessor's rights, powers or privileges hereunder, Lessee shall pay, in addition to all other sums hereunder, a reasonable attorney's fee.

NOTICES

14. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises, or to Lessor at 555 South Flower Street, Los Angeles, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

OTHER AGREEMENTS

15. From the effective date of commencement hereof, this lease terminates and supersedes any lease or other agreement between Lessee and Lessor, or the predecessors of Lessor, under the terms of which Lessee was privileged to occupy the demised premises.

EXECUTION

16. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof delivered to Lessee. It is agreed that the execution hereof has not been induced by any representation, warranty or agreement other than those herein expressed; and the terms hereof shall not be amended or varied except by a subsequent written instrument executed by the parties.

IN WITNESS WHEREOF, the parties have executed these premises as of the date hereinabove written.

RICHFIELD OIL CORPORATION

By.....
LESSOR

.....
LESSEE

.....
MAILING ADDRESS OF LESSEE

Government Exhibit 1-E

Form 342 Sm 2-46

RICHFIELD OIL CORPORATION
SERVICE STATION LEASE

THIS LEASE made and entered into this ..... day of ....., 19....., by and between RICHFIELD OIL CORPORATION, hereinafter referred to as "Lessor", and ....., hereinafter referred to as "Lessee",

WITNESSETH:

DESCRIPTION OF PROPERTY

That in consideration of the payment of the rents and the performance of the covenants and agreements herein set forth to be kept and performed on the part of Lessee, Lessor does hereby lease to Lessee that certain real property situated in the City of ....., County of ....., State of ....., together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated thereon, all as are fully described in Schedule "A" hereof.

TERM

TO HAVE AND TO HOLD unto Lessee for the period commencing ....., 19....., and continuing until terminated by either party by means of a written notice of election to terminate served on the other party in the manner prescribed in Paragraph "13" hereof at least twenty-four hours prior to the effective date of termination specified in such notice.

It is further agreed:

RENT

1. Lessee shall pay to Lessor as rent for the premises and property leased hereunder the following sums per month:

January	$	May	$	September	$ .....
February	$	June	$	October	$ .....
March	$	July	$	November	$ .....
April	$	August	$	December	$ .....

All such rentals shall be payable monthly in advance on the first day of the calendar month. Rent for any fractional part of a month shall be duly prorated on the basis of the rent for said month as herein specified. In addition to the aforesaid rental, Lessee shall pay to Lessor as rental for each month of the effective term hereof a sum computed by multiplying the total number of gallons of gasoline in excess of the number of gallons set forth below, received by Lessee on the demised premises during the month for which payment is being made, for resale and distribution therefrom, by the rates following, to-wit:

For the month of January	¢ per gallon of gasoline in excess of	gallons
For the month of February	¢ per gallon of gasoline in excess of	gallons
For the month of March	¢ per gallon of gasoline in excess of	gallons
For the month of April	¢ per gallon of gasoline in excess of	gallons
For the month of May	¢ per gallon of gasoline in excess of	gallons
For the month of June	¢ per gallon of gasoline in excess of	gallons
For the month of July	¢ per gallon of gasoline in excess of	gallons
For the month of August	¢ per gallon of gasoline in excess of	gallons
For the month of September	¢ per gallon of gasoline in excess of	gallons
For the month of October	¢ per gallon of gasoline in excess of	gallons
For the month of November	¢ per gallon of gasoline in excess of	gallons
For the month of December	¢ per gallon of gasoline in excess of	gallons

said payments to be made on or before the tenth day of the next succeeding calendar month. In case of fractional monthly periods the number of gallons shown in the last column above will be duly prorated and the gallonage rental will be paid on the gallons of gasoline delivered in excess of such prorated amount.

USE

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum products upon the demised premises, or the operation of a gasoline service station thereon is prevented by law or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon, is taken for public use, this lease shall forthwith terminate.

MAINTENANCE

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, trees, shrubs, lawns, fixtures and equipment in good order and repair and in a clean and safe condition. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make the necessary repairs for the account of Lessee and/or may terminate this lease. Lessee shall make no material change or alteration in the demised premises, improvements, buildings, fixtures and equipment except such as may be necessary to enable Lessee to continue business on said premises, unless the consent in writing of Lessor be first obtained.

DELIVERY

4. Upon the expiration or sooner termination of this agreement, Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and depreciation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair.

CT OF GOD

5. Should any of the improvements on the demised premises be destroyed by act of God, fire, explosion, the elements or any cause not due to the negligence, neglect or willful act of Lessee and be thereby rendered unsatisfactory for the conduct of Lessee's business thereon, Lessor shall be privileged to terminate this lease or repair the premises in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

TILITIES

6. During the occupancy of the demised premises, Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any liens to attach to the demised premises. Upon failure of Lessee in this respect, Lessor may, but shall not be obliged to, pay such charges and lien obligations, and add the same to the rental payable hereunder.

EFAULT

7. Should Lessee at any time fail to faithfully and diligently comply with the terms, conditions and covenants of this lease on his part to be performed, or should Lessee abandon or vacate the demised premises, or should Lessee default in payment of rent at the time due, or should bankruptcy or insolvency proceedings under the bankruptcy laws of the United States or any state be instituted by or against Lessee, or should any attachment, garnishment, execution or any other legal proceeding be levied or instituted by anyone other than Lessor against the premises or any of the equipment thereon in any action in which Lessee is named as defendant, or should Lessee attempt to sell, assign, pledge or mortgage the said premises or any part thereof, or allow any lien to attach thereto, or should Lessee enter into a composition for the benefit of creditors, Lessor may, without notice, immediately terminate this lease and reenter and resume possession of the premises, improvements, buildings, fixtures and equipment.

AIVER

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

SSIGNMENT

9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sublet any part of the demised premises without the written consent of Lessor first having been obtained.

DEMNITY

10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occuring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees, thereon, or thereabout during the term hereof.

ION LEASES

11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all terms, provisions and conditions contained in that certain lease dated the ..... day of ....., 19....., by and between ....., as lessor, and ....., as lessee (to whose interest Lessor herein has succeeded). The relinquishment, expiration or sooner termination of said lease shall of itself result in the termination of this lease without notice and without liability on the part of Lessor herein, and Lessor shall be privileged to terminate this lease forthwith by notice at a time not exceeding 10 days prior to the termination, relinquishment, or expiration of the above lease so as to permit Lessor to remove its property from the demised premises. Lessor herein shall be privileged to amend, modify or extend the above described lease without notice to Lessee herein in which event this lease shall become subject to the terms, provisions and conditions of said lease as modified, amended or extended. Lessor makes no warranty that the aforesaid lease will not by its terms expire, or is not subject to termination prior to the earliest termination date herein provided.

TTORNEY'S FEES

12. In the event Lessor shall employ an attorney or attorneys in connection with the pursuit of any of Lessor's rights, powers or privileges hereunder, Lessee shall pay, in addition to all other sums hereunder, a reasonable attorney's fee.

OTICES

13. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises, or to Lessee at 555 South Flower Street, Los Angeles 13, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

OTHER GREEMENTS

14. From the effective date of commencement hereof, this lease terminates and supersedes any lease or other agreement between Lessee and Lessor, or the predecessors of Lessor, under the terms of which Lessee was privileged to occupy the demised premises.

EXECUTION

15. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof delivered to Lessee. It is agreed that the execution hereof has not been induced by any representation, warranty or agreement other than those herein expressed; and the terms hereof shall not be amended or varied except by a subsequent written instrument executed by the parties.

IN WITNESS WHEREOF, the parties have executed these premises as of the date hereinabove written.

RICHFIELD OIL CORPORATION

By .....
LESSOR

.....
LESSEE

.....
MAILING ADDRESS OF LESSEE

Government Exhibit 1-F

FORM 542-F [illegible]

This rider is to be attached to that certain Service Station Lease, Form 542, made and entered into the day of , 194 , between Richfield Oil Corporation, as "Lessor," and as "Lessee," by which was leased the service station premises commonly known as in the City of , County of , State of

It is agreed that irrespective of anything to the contrary contained in said Lease, rental payable thereunder commencing the day of , 194 , shall be $ per month and no more.

Executed this day of , 194

RICHFIELD OIL CORPORATION

By.....
LESSOR

.....
LESSEE

Government Exhibit 1-G

RICHFIELD OIL CORPORATION
SERVICE STATION LEASE

THIS LEASE made and entered into this.....day of....., 19....., by and between RICHFIELD OIL CORPORATION, hereinafter referred to as "Lessor", and....., hereinafter referred to as "Lessee",

WITNESSETH:

DESCRIPTION OF PROPERTY

That in consideration of the payment of the rents and the performance of the covenants and agreements herein set forth to be kept and performed on the part of Lessee, Lessor does hereby lease to Lessee that certain real property situated in the City of....., County of....., State of....., together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated thereon, all as are fully described in Schedule "A" hereof.

TERM

TO HAVE AND TO HOLD unto Lessee for the period commencing....., 19....., and continuing until terminated by either party by means of a written notice of election to terminate served on the other party in the manner prescribed in Paragraph "18" hereof at least twenty-four hours prior to the effective date of termination specified in such notice.

It is further agreed:

RENT

1. Lessee shall pay to Lessor as rent for the premises and property leased hereunder the following sums per month:

January	$.....	May	$.....	September	$.....
February	$.....	June	$.....	October	$.....
March	$.....	July	$.....	November	$.....
April	$.....	August	$.....	December	$.....

All such rentals shall be payable monthly in advance on the first day of the calendar month. Rent for any fractional part of a month shall be duly prorated on the basis of the rent for said month as herein specified. In addition to the aforesaid rental, Lessee shall pay to Lessor as rental for each month of the effective term hereof a sum computed by multiplying the total number of gallons of gasoline in excess of the number of gallons set forth below, received by Lessee on the demised premises during the month for which payment is being made, for resale and distribution therefrom, by the rates following, to-wit:

For the month of January.....¢ per gallon of gasoline in excess of.....gallons
For the month of February.....¢ per gallon of gasoline in excess of.....gallons
For the month of March.....¢ per gallon of gasoline in excess of.....gallons
For the month of April.....¢ per gallon of gasoline in excess of.....gallons
For the month of May.....¢ per gallon of gasoline in excess of.....gallons
For the month of June.....¢ per gallon of gasoline in excess of.....gallons
For the month of July.....¢ per gallon of gasoline in excess of.....gallons
For the month of August.....¢ per gallon of gasoline in excess of.....gallons
For the month of September.....¢ per gallon of gasoline in excess of.....gallons
For the month of October.....¢ per gallon of gasoline in excess of.....gallons
For the month of November.....¢ per gallon of gasoline in excess of.....gallons
For the month of December.....¢ per gallon of gasoline in excess of.....gallons

said payments to be made on or before the tenth day of the next succeeding calendar month. In case of fractional monthly periods the number of gallons shown in the last column above will be duly prorated and the gallonage rental will be paid on the gallons of gasoline delivered in excess of such prorated amount.

USE

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum products upon the demised premises or the operation of a gasoline service station thereon is prevented by law or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon, is taken for public use, this lease shall forthwith terminate.

MAINTENANCE

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, trees, shrubs, lawns, fixtures and equipment in good order and repair and in a clean and safe condition. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make the necessary repairs for the account of Lessee and/or may terminate this lease. Lessee shall make no material change or alteration in the demised premises, improvements, buildings, fixtures and equipment except such as may be necessary to enable Lessee to continue business on said premises, unless the consent in writing of Lessor be first obtained.

REDELIVERY

4. Upon the expiration or sooner termination of this agreement, Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and deprecriation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair. Lessor shall not be liable to Lessee for any property left by Lessee in or on the demised premises.

ACT OF GOD

5. Should a substantial part of the improvements on the demised premises be destroyed by act of God, fire, explosion, the elements or any cause not due to the negligence, neglect or willful act of Lessee and be thereby rendered unsatisfactory for the conduct of Lessee's business thereon, Lessee shall be privileged to terminate this lease or repair the premises in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

UTILITIES

6. During the occupancy of the demised premises, Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any liens to attach to the demised premises. Upon failure of Lessee in this respect, Lessor may, but shall not be obliged to, pay such charges and lien obligations, and add the same to the rental payable hereunder.

DEFAULT

7. Should Lessee at any time fail to faithfully and diligently comply with the terms, conditions and covenants of this lease on his part to be performed, or should Lessee abandon or vacate the demised premises, or should Lessee default in payment of rent at the time due, or should bankruptcy or insolvency proceedings under the bankruptcy laws of the United States or any state be instituted by or against Lessee, or should any attachment, garnishment, execution or any other legal proceeding be levied or instituted by anyone other than Lessor against the premises or any of the equipment thereon in any action in which Lessee is named as defendant, or should Lessee attempt to sell, assign, pledge or mortgage the said premises or any part thereof, or allow any lien to attach thereto, or should Lessee enter into a composition for the benefit of creditors, Lessor may, without notice, immediately terminate this lease and re-enter and resume possession of the premises, improvements, buildings, fixtures and equipment.

WAIVER

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

ASSIGNMENT

9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sublet any part of the demised premises without the written consent of Lessor first having been obtained.

INDEMNITY

10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occuring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees, thereon, or thereabout during the term hereof.

PRIOR LEASES

11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all terms, provisions and conditions contained in that certain lease dated the.....day of....., 19....., by and between _____, as lessor, and _____, as lessee (in whose interest Lessor herein has succeeded). The relinquishment, expiration or sooner termination of said lease shall of itself result in the termination of this lease without notice and without liability on the part of Lessor herein, and Lessor shall be privileged to terminate this lease forthwith by notice at a time not exceeding 10 days prior to the termination, relinquishment, or expiration of the above lease so as to permit Lessee to remove its property from the demised premises. Lessor herein shall be privileged to amend, modify or extend the above described lease without notice to Lessee herein in which event this lease shall become subject to the terms, provisions and conditions of said lease as modified, amended or extended. Lessor makes no warranty that the aforesaid lease will not by its terms expire, or is not subject to termination prior to the earliest termination date herein provided.

ATTORNEY'S FEES

12. In the event Lessor shall employ an attorney or attorneys in connection with the pursuit of any of Lessor's rights, powers or privileges hereunder, Lessee shall pay, in addition to all other sums hereunder, a reasonable attorney's fee.

NOTICES

13. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises, or at the address hereinafter provided, or to Lessor at 555 South Flower Street, Los Angeles 13, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

OTHER AGREEMENTS

14. From the effective date of commencement hereof, this lease terminates and supersedes any lease or other agreement between Lessee and Lessor, or the predecessors of Lessor, under the terms of which Lessee was privileged to occupy the demised premises or any portion thereof or any larger premises of which the premises demised hereby are a part.

EXECUTION

15. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof delivered to Lessee. It is agreed that the execution hereof has not been induced by any representation, warranty or agreement other than those herein expressed; and the terms hereof shall not be amended or varied except by a subsequent written instrument executed by the parties.

IN WITNESS WHEREOF, the parties have executed this lease as of the date first hereinabove written.

RICHFIELD OIL CORPORATION

By.....
LESSOR

.....
LESSEE

.....
MAILING ADDRESS OF LESSEE

Government Exhibit 2

RICHFIELD OIL CORPORATION
TRUCK SERVICE STATION LEASE

THIS LEASE made and entered into this 1st day of December, 19 48,

by and between RICHFIELD OIL CORPORATION, hereinafter referred to as "Lessor", and

CHARLES E. RONNOW, hereinafter referred to as "Lessee".

WITNESSETH:

DESCRIPTION OF PROPERTY

That in consideration of the payment of rents and the performance of the covenants and agreements hereinafter set forth to be kept and performed on the part of Lessee, Lessor does hereby lease to Lessee that certain real property situated in the City of Las Vegas, County of Clark, State of Nevada, together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated thereon, all as are fully described in Exhibit "A" hereof.

TERM

C.E.R. INITIALS

TO HAVE AND TO HOLD for the period commencing as of the 1st day of December, 19 48, and extending to the 30th day of November, 1953, subject, however, to termination on the part of Lessor at any time during the term hereof by means of a notice in writing served upon Lessee in the manner prescribed in Paragraph 13 hereof at least five (5) days prior to the effective date of termination specified in said notice.

IT IS FURTHER AGREED:

RENT

1. Lessee shall pay to Lessor as rent for the premises and property leased hereunder the sum of $703.00 per month, said rentals to be payable monthly in advance on the first day of each calendar month during the effective term hereof. Rentals for fractional monthly periods shall be prorated. Irrespective of anything to the contrary herein contained it is agreed that rental payable hereunder during the first two months of the term hereof shall be the amounts set forth below and no more.

December 1948 . . . . . $703.00 January 1949 . . . . . $703.00

C.E.R.

Effective as of the date of commencement of the term hereof this lease supersedes and terminates that certain Truck Service Station Lease made and entered

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TRUCK SERVICE STATION LEASE

THIS LEASE made and entered into this 1st day of December, 19 42,

by and between RICHFIELD OIL CORPORATION, hereinafter referred to as "Lessor", and

CHARLES E. RONNOW hereinafter referred to as "Lessee".

WITNESSETH:

DESCRIPTION OF PROPERTY

That in consideration of the payment of rents and the performance of the covenants and agreements hereinafter set forth to be kept and performed on the part of Lessee, Lessor does hereby lease to Lessee that certain real property situated in the City of Las Vegas, County of Clark, State of Nevada, together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated thereon, all as are fully described in Exhibit "A" hereof.

TERM

TO HAVE AND TO HOLD for the period commencing as of the 1st day of December, 19 42, and extending to the 30th day of November, 1953, subject, however, to termination on the part of Lessor at any time during the term hereof by means of a notice in writing served upon Lessee in the manner prescribed in Paragraph 13 hereof at least five (5) days prior to the effective date of termination specified in said notice.

IT IS FURTHER AGREED:

RENT

1. Lessee shall pay to Lessor as rent for the premises and property leased hereunder the sum of $703.00 per month, said rentals to be payable monthly in advance on the first day of each calendar month during the effective term hereof. Rentals for fractional monthly periods shall be prorated. Irrespective of anything to the contrary herein contained it is agreed that rental payable hereunder during the first two months of the term hereof shall be the amounts set forth below and no more.

December 1942 . . . . . $703.00 January 1943 . . . . . $703.00

Effective as of the date of commencement of the term hereof this lease supersedes and terminates that certain Truck Service Station Lease made and entered into the 4th day of January, 1946, by and between the parties hereto, by which Lessor leased a portion of the premises demised hereby for the period commencing as of the 1st day of February, 1946, and extending to the 31st day of January, 1951, unless sooner terminated as therein provided.

USE

2. The improvements, buildings and facilities erected and located on the demised premises are primarily designed and shall be used for the operation of a gasoline truck service station. In no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum products upon the demised premises or the operation of a truck service station thereon is prevented by law or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a truck service station thereon is taken for public use, this Lease shall forthwith terminate.

MAINTENANCE

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, parkways and driveways, fixtures and equipment in good order and repair and in a clean and safe condition. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make the necessary repairs for the account of Lessee and/or may terminate this Lease. Lessee shall make no material change or alteration in the demised premises, improvements, buildings, fixtures and equipment except such as may be necessary to enable Lessee to continue business on said premises, unless the consent in writing of the Lessor be first obtained.

REDELIVERY

4. Upon the expiration or sooner termination of this agreement, Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and depreciation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair.

ACT OF GOD

5. Should a substantial part of the improvements on the demised premises be destroyed by act of God, fire, explosion, the elements or any cause not due to the negligence, neglect or willful act of Lessee and be thereby rendered unsatisfactory for the conduct of Lessee's business thereon, Lessor shall be privileged to terminate this Lease or repair the premises in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

UTILITIES

6. During the occupancy of the demised premises, Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any liens to attach to the demised premises. Upon failure of Lessee in this respect, Lessor may, but shall not be obliged to, pay such charges and lien obligations, and add the same to the rental payable hereunder.

DEFAULT

7. Should Lessee at any time fail to faithfully and diligently comply with the terms, conditions and covenants of this Lease on his part to be performed, or should Lessee abandon or vacate the demised premises, or should Lessee default in payment of rent at the time due, or should bankruptcy or insolvency proceedings under the bankruptcy laws of the United States or any state be instituted by or against Lessee, or should any attachment, garnishment, execution or any other legal proceeding be levied or instituted by anyone other than Lessor against the premises or any of the equipment thereon in any action in which Lessee is named as defendant, or should Lessee attempt to sell, assign, pledge or mortgage the said premises or any part thereof, or allow any lien to attach thereto, or should Lessee enter into a composition for the benefit of creditors, Lessor may, without notice, immediately terminate this lease and re-enter and resume possession of the premises, improvements, building, fixtures and equipment.

WAIVER

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

POOR COPY

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ASSIGNMENT 9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sublet any part of the demised premises without the written consent of Lessor first having been obtained.

INDEMNITY 10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occurring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees, thereon, or thereabout during the term hereof.

PRIOR LEASES 11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all terms, provisions and conditions contained in that certain lease dated the 25th day of September, 19 44, by and between Richard H. Clough and Edith Clough, his wife, as lessor, and Richfield Oil Corporation, as lessee (this [redacted]). The relinquishment, expiration or sooner termination of said lease shall of itself result in the termination of this lease without notice and without liability on the part of Lessor hereto.

ATTORNEY'S FEES 12. In the event Lessee shall employ an attorney or attorneys in connection with the pursuit of any of Lessee's rights, powers or privileges hereunder, Lessee shall pay, in addition to all other sums hereunder, a reasonable attorney's fee.

NOTICES 13. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises or to Lessee at 919 South Flower Street, Los Angeles 13, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

EXECUTION 14. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof delivered to Lessee. It is agreed that the execution hereof has not been induced by any representation, warranty or agreement other than those herein expressed, and the terms hereof shall not be amended or varied except by a subsequent written instrument executed by the parties.

IN WITNESS WHEREOF, the parties have executed these presents as of the date hereinabove written.

Charles E. Ronnow
Lessee

629 So. Main Street,
Las Vegas, Nevada
Mailing Address of Lessee

RICHFIELD OIL CORPORATION

By _____
Lessee

EXHIBIT A

DESCRIPTION OF LEASED REAL PROPERTY

Lots 4 to 8 inclusive, and Lots 9 to 16 inclusive, in Block 9 of Clark's Las Vegas Townsite, as shown by map thereof on file in Book 1 of Platts, page 37, in the office of the County Recorder of Clark County, Nevada.

1 - 20 x 30 concrete block sales building w/28" wooden cabinets and 4 2 tube fluorescent fixtures and tubes.
1 - 20 x 30 concrete block building, drivers' rest and 2 rest rooms w/4 wash basin lavatories, 3 stools, 2 windows, glass block partitions and tile on floor and walls and 2 shower heads and 3 mirrors.
7 - electrolier poles
7 - double arms for poles
20 - Benjamin floodlights w/1000 watt bulbs
2 - I Boards
1 - Grease pit complete w/sump, lights, oil lines, and sump pump, Pemberthy 1/4 H.P. Motor, 120V #117825
1 - Air Cooker 2500 cubic feet
1 - Hot water tank, 60 gallon
1 - Hawes Drinking Fountain
4 - 10,000 gallon underground tanks
1 - 550 gallon underground oil drain tank
16 - fill box covers
8 - extractor valve units
4 - padlocks
Electric, air and gasoline line systems
Grease piping to pit
Oil Piping to island hose reels
2 - air and water hoses reels w/hose
2 - air hose reels w/hose
1 - cash box without stand
1 - Richfield sign 3 x 35, metal
1 - air and water stand w/valves
1 - electric panel board at alley w/1 - 220 switch and 1 - 110 switch
1 - electric system w/light bulbs and fixtures complete

(continued on next page)

Government Exhibit 3

Service Station Lease

2-B

IN CONSIDERATION of the payment of rent and of the covenants of the parties,

"LESSOR," hereby lets and leases to Richfield Oil Corporation, "LESSEE," and Lessee takes and rents from Lessor the real property situated in the City of....., County of....., State of....., particularly described as follows:

together with all appurtenances thereunto belonging, and together, also, with the personal property described in the inventory which is hereto attached marked "Exhibit A" and is by this reference incorporated herein as if here set forth at length, for the term commencing....., 19....., and ending....., 19....., provided, however, that this lease may be terminated by the parties as herein provided.

1. In consideration of the letting and leasing by Lessor and of the covenants of the parties, Lessee agrees:

(a) To pay as rent for said real and personal property on the day of each month during which this lease remains in effect the sum of .....

(b) To keep the property hereinabove described in good condition and repair during the term hereof at Lessee's sole expense, except that Lessee shall not be liable for, or be obligated to repair, damage caused by reasonable wear and use thereof, or by fire, or by any other causes beyond its control;

(c) To pay for all water, electricity and gas used on the demised premises during the said term;

(d) Not to allow the encumbrance of the said premises by any liens occasioned by Lessee's use thereof hereunder.

2. In consideration of the payment of rent by Lessee and of the covenants of the parties, Lessor agrees:

(a) Immediately to repair at Lessor's sole cost any damage the result of fire and/or any cause not the fault of Lessee, and to abate the rent payable hereunder for such time and proportionately to the extent that Lessee is deprived of the use of the real or personal property hereunder demised or leased or any part thereof;

(b) At Lessor's sole expense to make any changes or alterations in the real and personal property hereby leased that may be required by law to permit the use thereof for the operation of a gasoline service station, and in the event that any part of the premises hereby demised is taken for public use and the residue remains suitable for maintaining a gasoline service station thereon, at Lessor's sole expense to put all the leased property in order for the conduct of Lessee's business after such taking, and to abate the rent payable hereur ler for such time and to such extent as Lessee is prevented from using the said leased property or any part hereof;

(c) In the event Lessor during the term hereof receives a bona fide offer to purchase the property hereunder leased, or any part thereof, to notify Lessee in writing and to allow Lessee for ten (10) days thereafter the exclusive right to purchase the said property in accordance with the terms of the said offer; it is understood, however, that the failure of Lessee to exercise such option shall in no way affect its rights under this lease, this lease remaining in full force and effect and any sale of the property hereby leased being subject to the rights of Lessee hereunder;

(d) Not to conduct within two hundred (200) yards of the premises hereby demised, or permit to be conducted in premises controlled by Lessor, any business venture from which petroleum products other than those of Lessee are sold or distributed;

(e) Lessor warrants that the title to the premises and the personal property hereby leased is vested in Lessor free and clear of all liens, clouds and encumbrances, except .....

and current taxes not delinquent and that there are no municipal or other governmental restrictions, leases or other agreements with respect to said property that would affect the use of all or any part thereof for a gasoline service station.

3. Lessor shall pay all taxes and insurance with respect to all the property leased. Lessee may, but without any obligation so to do, pay delinquent taxes and other sums that may be necessary to protect the leasehold hereby created, and may thereafter deduct all sums so paid, together with interest thereon at six (6%) per cent per annum from date of payment and proportionately for any part thereof, from the rent payable hereunder.

4. Lessee shall be privileged to paint all or any part of the property hereunder leased, so long as said property is not thereby unreasonably damaged, and Lessee may place additional improvements, fixtures and/or equipment upon the premises hereby demised, which improvements, fixtures and, or equipment it shall have the right to remove at any time during the term hereof and also within thirty (30) days after the expiration or any other termination of this lease, or of any extension hereof, even though such termination is the result of Lessee's own default.

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5. In the event that the sale of gasoline or other petroleum products upon the premises hereinabove described, or the construction, operation or maintenance of any of the improvements, equipment or facilities located thereon or necessary to the maintenance of a gasoline service station thereon is prevented by law; or in the event that the whole or any part of the said premises is taken for public use; or in the event that the vacating of any street or highway upon which the said premises front shall interfere with the convenient use thereof for the purpose of operating a gasoline filling station; or in the event that by reason of other cause or causes beyond the control of Lessee, Lessee is unable lawfully and peacefully to conduct, or to have conducted, a gasoline filling station business upon the said premises, then in any of such events just hereinabove set forth, at the option of Lessee, this lease may be terminated and the leasehold estate surrendered immediately at Lessee's option; and it is agreed that in the event of any such termination and surrender, rent otherwise payable by the terms hereof shall immediately cease.

6. Lessor hereby grants to Lessee the following prior and exclusive options:

(a) To extend this lease for a period of ..... years upon all of the terms herein set forth. In the event of the exercise of this option by Lessee, Lessee shall give to Lessor a written notice of its election to exercise such option at least thirty (30) days prior to the expiration of this lease.

(b) To purchase the premises and personal property hereby demised and leased at any time prior to the expiration date of this lease or any extension hereof for the sum of ..... ($.....) Dollars.

7. Upon failure of Lessee to perform any of the covenants herein required of it, Lessor shall notify Lessee of such default in writing by notice directed to it at 555 South Flower Street, Los Angeles, California, or such other address as Lessee may designate, and in the event, but only in the event, that Lessee fails to remedy such default within ten (10) days after receipt of such notice, Lessor shall have the right to re-enter the premises hereinabove described and to terminate this lease or to avail itself of any other remedy provided by law.

8. Any notice required or permitted hereunder to be served upon Lessor shall be deemed properly served when such notice is directed to it at..... and deposited, postage prepaid, in the United States mail.

9. All the terms, covenants and conditions hereof shall be binding upon and shall inure to the benefit of the heirs, administrators, successors and/or assigns of Lessor, and the successors and assigns of Lessee.

10. It is understood that regulations or enactments of federal, state, county or municipal authorities may make necessary certain modifications of the provisions of this lease. Lessor agrees at the time of any such regulations or enactments become effective, to execute with Lessee such modification hereof proposed by Lessee as may be necessary to permit compliance by both parties hereto with the provisions thereof.

11. In the event there shall at any time during the term of this lease be imposed, levied or assessed by the state, county or municipality in which the premises hereunder leased are situated, any tax, assessment or other charge which would require the payment by Lessee to any such governmental instrumentality of a sum in excess of $25.00 per annum by reason of Lessee's interest in or control over or operation of the premises hereunder leased, or of the business conducted thereon, (there being taken into account, in determining the amount of tax required to be paid by Lessee by reason of its control of said premises, all other locations controlled by Lessee in the entire political subdivision by which such tax is levied). Lessee shall at all times thereafter have the privilege and power of terminating this lease at any time by means of a thirty day notice in writing to Lessor of Lessee's election to terminate.

12. The terms and provisions hereof shall not be binding upon either party hereto until this instrument has been duly executed in writing by both parties and delivered by Lessee. No performance by either party hereto of the provisions of this instrument shall be deemed to be execution thereof, and such performance shall not create any obligation with respect to future performance hereof, provided, however, that any performance hereof prior to complete execution and delivery, as aforesaid, shall be upon the terms and conditions herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this instrument this.....day of ....., 19.....

.....

.....

Lessor.

RICHFIELD OIL CORPORATION

BY.....

Lessee.

Government Exhibit 3-A

SUBLEASE

THIS LEASE executed this____day of_____, 19____, between RICHFIELD OIL CORPORATION, herein called "Lessor", and_____, herein called "Lessee",

WITNESSETH:

That in consideration of the payment by Lessee of the rent herein specified and of the mutual covenants herein contained, Lessor hereby demises and leases unto Lessee and Lessee takes and rents from Lessor those certain premises in the City of_____, County of_____, State of_____ described as follows:

together with all appurtenances thereunto belonging, and together also with the personal property described in the inventory which is hereto attached, marked Exhibit "A", and by this reference incorporated herein as if herein set forth at length.

TO HAVE AND TO HOLD unto Lessee for the term commencing the____day of_____, 19____, and ending the____day of_____, 19____, unless this lease shall be sooner terminated in a manner herein provided.

The following shall constitute the covenants of this lease, and the parties hereto agree as follows:

1. Lessee shall pay to Lessor as rent for said real and personal property, on the____day of each month during which this lease remains in effect, the sum of_____

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum products upon the demised premises or the operation of a gasoline service station thereon is prevented by law or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon, is taken for public use, this lease shall forthwith terminate.

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, fixtures and equipment in good order and repair and in a clean and safe condition at Lessee's cost and expense. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make necessary repairs for the account of Lessee and/or may terminate this lease. Lessee shall make no change, alteration or substitution in the demised premises, improvements, buildings, fixtures and equipment except such as may be necessary to enable Lessee to continue business on said premises, unless the consent in writing of Lessor be first obtained.

4. Upon the expiration or sooner termination of this agreement, Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and depreciation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair.

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5. Should any of the improvements on the demised premises be destroyed Act of God, fire, explosion, the elements or any cause not due to the negligence, neglect, or willful act of Lessee and be thereby rendered uninhabitable for the conduct of Lessee's business thereon, Lessor shall be privileged to terminate this lease or repair the premises, in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

6. During the occupancy of the demised premises, Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any liens to attach to the demised premises. Lessee shall also pay the total amount of all taxes and assessments levied or imposed against all property of Lessee located on the premises. Upon failure of Lessee in this respect, Lessor may, but shall not be obligated to, pay such taxes and/or charges, and add the same to the rental payable hereunder.

7. In the event Lessee shall at any time during the term hereof be in default in respect to the payment of rent herein provided or in respect to the performance of any other of the provisions hereof, or should Lessee abandon or vacate the demised premises, Lessor shall be privileged, at its option, to resume possession of the demised premises, with or without process of law; thereupon, at Lessor's option, this lease and all of the rights of Lessee hereunder shall forthwith terminate. In the event of such re-entry by Lessor, Lessor shall be privileged to possess and to hold all property of Lessee which may be situated on the demised premises as a pledge to secure payment by Lessee of any sum or sums which may be due or owing to Lessor by Lessee on any account or accounts whatever. The foregoing remedies shall be in addition to those now or hereafter provided by law.

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sub-let any part of the demised premises without the written consent of Lessor first having been obtained. This lease shall not become an asset of the estate of Lessee but shall terminate on his death.

10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occurring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees, thereon or thereabout during the term hereof.

11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all the terms, provisions and conditions contained in that certain lease dated the_____ day of_____, 19____ by and between_____, as lessor, and_____, as lessee (to whose interest Lessor herein has succeeded). The expiration, relinquishment or termination of said lease for any cause whatsoever, or any transfer, re-assignment or relinquishment by Lessor of its interest in said lease or the demised premises, shall of itself result in the termination of this lease without any notice or action whatever on the part of Lessor or Lessee herein. Any such termination hereof shall be without any liability on the part of Lessor, and in the event of such termination, Lessor shall be obligated only to return to Lessee any rent paid in advance hereunder, which obligation shall exist only in the event that at the time of such termination Lessee shall not be in default in respect to any of the provisions hereof.

12. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises, or to Lessor at 555 South Flower Street, Los Angeles, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

13. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof delivered to Lessee.

IN WITNESS WHEREOF, the parties have executed these premises as of the date hereinabove written.

RICHFIELD OIL CORPORATION,

By_____

_____
Lessor

_____

_____
Lessee

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RICHFIELD OIL CORPORATION
SALES CONTRACT

as of
THIS AGREEMENT, executed this 1st day of January, 19 38, between RICHFIELD OIL CORPORATION, hereinafter referred to as "Seller", and W. O. White and Eddie White, hereinafter referred to as "Buyer".

WITNESSETH: That

1. Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase from Seller, as ordered by Buyer during the term hereof, the following petroleum products, in yearly quantities not greater than the maximum nor less than the minimum amounts hereinbelow specified for the respective products, the same to be taken in fairly equal monthly quantities:

	Maximum		Minimum	
GASOLINE	281,225	gals.	56,245	gals.
LUBRICATING OILS	8,500	gals.	880	gals.
GREASES	4,250	lbs.	262	lbs.

W.O.W. E.W.

2. This agreement shall commence as of the 1st day of January, 19 38, and shall continue until the 18th day of November, 1938.

3. The products agreed to be sold and delivered hereunder are for resale by Buyer to the retail trade. Buyer agrees not to resell any of the products delivered hereunder which bear, or the label or container of which bears, the trademark, brand or name of Seller, or which is sold through pumps or other vending equipment bearing the trademark, brand or name of Seller, except at the price designated by Seller as the resale price of such product. Attached hereto, marked "Schedule A", and hereby made a part of this contract, is a schedule of the products deliverable hereunder at the commencement of this contract, and set opposite the name of each product is a price which Seller hereby designates as the resale price of such product effective at the commencement of this contract and until further notice. Seller reserves the right to designate at any time resale prices for such products listed in Schedue "A" as to which resale prices are not designated in said Schedule. Seller shall have the right to change the designated resale price of any of the products to be delivered hereunder at any time and from time to time during the term hereof, by written or oral notice directed to Buyer. Seller shall have the right at any time and from time to time during the term hereof to add to the products deliverable hereunder, as listed in Schedule "A" any other brand of gasoline, lubricating oils and greases which it may hereafter produce or manufacture, and to designate a resale price therefor. Seller shall also have the right at any time and from time to time during the term hereof to discontinue sale of any of the products listed in Schedule "A", and in such event this agreement shall terminate as to such products, but shall remain effective for all other purposes.

4. Prices to be paid by Buyer to Seller for the several grades of gasoline sold and delivered hereunder shall be the designated resale prices thereof at the time and place of delivery to Buyer, less four cents (4¢) per gallon in respect of Seller's Ethyl gasoline, four cents (4¢) per gallon in respect of Seller's first grade non-premium gasoline (now known as "Hi-Octane") and three cents (3¢) per gallon in respect of any gasoline of a grade inferior to Seller's first grade non-premium gasoline.

Prices to be paid by Buyer to Seller for products other than gasoline delivered hereunder shall be Seller's posted prices to service station dealers in effect at the time and place of delivery. Seller's posted price to service station dealers in respect of each product deliverable hereunder other than gasoline is set forth in Schedule "A". The posted price of any such product shall be subject to change by Seller at any time and from time to time during the term hereof.

5. Deliveries hereunder shall be made to Buyer's service station at SE Corner Florida and Sanderson Aves., Hemet, California. All gasoline sold hereunder shall be delivered by tank truck, tank truck and trailer, or such other method of delivery as Seller shall select, and Buyer agrees to maintain storage, which shall conform with all laws and governmental regulations, into which said gasoline may be delivered.

6. In addition to the prices herein provided, Buyer shall pay Seller any and all taxes, increase in taxes or new taxes not included in the prices herein specified, on the products covered by this agreement and/or the production, manufacture, transportation, sale, use and/or other handling of said products.

7. Buyer shall pay Seller cash on delivery for all products delivered hereunder unless otherwise mutually agreed upon from time to time. No allowance of credit shall prevent Seller from returning at any time, at Seller's election, to a cash on delivery basis.

8. Failure or refusal of Buyer to comply with the terms of this agreement or to promptly make payment when due on all products delivered hereunder shall entitle Seller to suspend deliveries until any breach is remedied or payment is made, or to forthwith terminate this agreement.

9. In the event that performance on the part of Seller of any or all of the terms of this agreement is prevented or impeded in whole or in part, or in the event that the cost of such performance by Seller is abnormally increased by reason of acts of God, acts of public administrators, war, governmental regulations or restrictions, strikes, labor disturbances, perils of the sea, riots, fires, floods, earthquakes, embargoes, inability to obtain supplies or labor, loss or shortage of producing, manufacturing or transportation facilities and/or any other cause of causes beyond Seller's control, performance by Seller hereunder shall be excused without any liability whatever on its part.

10. If Buyer purchases Ethyl or Ethyl-treated gasoline hereunder, he shall sell said gasoline in accordance with the rules and regulations prescribed by the Surgeon General of the United States and other health officers, and shall procure the licenses required by the Ethyl Gasoline Corporation. Unless Buyer complies with the terms and provisions of this paragraph, Seller shall not be obligated to sell or deliver Ethyl or Ethyl-treated gasoline hereunder.

11. Neither this agreement nor any of the rights, powers or privileges of Buyer hereunder shall be assignable by Buyer without the written consent of Seller.

12. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Buyer at the office specified in paragraph 5 hereof, or to Seller at 555 South Flower Street, Los Angeles, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Buyer.

13. Buyer hereby acknowledges execution hereof without reliance upon any representations, warranties, promises or assurances other than those written herein.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION,

By [illegible] Seller

W. O. White

Eddie White
EDDIE WHITE Buyer

2-B #1574

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Government Exhibit 3-C

ASSIGNMENT OF LEASE

KNOW ALL MEN BY THESE PRESENTS:

That _____, herein called "Assignor", in consideration of the payment by Richfield Oil Corporation, herein called "Assignee", of the sum of ($1.00) dollar, receipt of which is hereby acknowledged, does by these presents sell, assign, transfer and set over to said Richfield Oil Corporation all of his right, title and interest in and to that certain lease dated the day of _____, 19____, between _____, as Lessor, and _____, as Lessee, (to whose interest Assignor has succeeded by assignment) demising premises situated in the City of _____, _____ County of _____, State of _____, particularly described in said lease as follows:

which lease extends to the _____ day of _____, 19____, and assigns also all amendments or extensions of said lease, all subleases thereof and all rents, issues and profits arising therefrom.

Assignor hereby warrants that the said leasehold interest herein assigned is free of mortgages and other liens.

Assignor hereby further agrees that Assignee hereunder may re-assign this lease to Assignor at any time by deposit of duly executed instrument of re-assignment in the United States mail, postage prepaid, directed to Assignor herein at _____, and in such event such re-assignment shall take effect as of the date therein specified, without any act of acceptance on the part of Assignor herein, and Assignee herein shall, as of the effective date of said re-assignment, be relieved from any further obligation under the lease hereby assigned.

Dated this _____ day of _____, 19____.

_____

_____

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Government Exhibit 3D

CONSENT TO ASSIGN, RE-ASSIGN AND SUBLEASE

In consideration of the sum of ($1.00) dollar, receipt whereof is hereby acknowledged, _____, Lessor in the lease above described, does hereby consent to the foregoing assignment by _____, Assignor, to Richfield Oil Corporation, Assignee, without releasing Assignor from any obligations thereunder, and does hereby agree to give to Assignee a ten-day notice in writing of any default in respect to any of the terms, covenants, provisions or conditions contained in said lease; does warrant that said _____ is not in default in respect to any of the terms, covenants or conditions of said lease; that rent has been paid in full to date hereof; and that past or existing defaults, if any, have been waived.

The undersigned does further consent to any re-assignment by Richfield Oil Corporation in accordance with the provisions contained in the foregoing assignment, and does hereby agree that from and after the effective date of said re-assignment Richfield Oil Corporation shall be relieved from any further obligations under the lease so re-assigned.

The undersigned does further grant to Richfield Oil Corporation, its successors and assigns, the right to sub-let the property leased under said lease, and the right to remove, at any time during the term of said lease, and within thirty days after the expiration or any sooner termination thereof, all buildings, improvements and equipment which said Richfield Oil Corporation or its successors or assigns or predecessors shall have placed upon said premises.

Dated this ____ day of _____, 19____.

_____

_____

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Government Exhibit 4

3-C

SERVICE STATION LEASE

THIS LEASE, made and entered into this day of 19 by and between , herein called "Lessee," (whether one or more and when referred to by pronoun the singular neuter gender will be used), and RICHFIELD OIL CORPORATION, herein called "Lessor,"

WITNESSETH:

That in consideration of the payment by Lessee of the rent herein specified and of the mutual covenants herein contained, Lessor hereby demises and leases unto Lessee and Lessee takes and rents from Lessor that certain real estate situated in the City of County of State of described as follows:

together with all appurtenances thereunto belonging, and together also with the buildings, facilities, equipment and other improvements located thereon and listed in the inventory hereto attached marked "Exhibit A," which inventory is by this reference incorporated in this lease and made a part hereof for all purposes, and with all other improvements, if any, hereafter erected or placed thereon by Lessee.

TO HAVE AND TO HOLD the above demised and leased real estate and improvements (hereinafter referred to collectively as "premises"), and all rights, privileges and appurtenances thereunto belonging, unto Lessee, its successors and assigns, for the term

SERVICE STATION LEASE

THIS LEASE, made and entered into this day of 19 by and between , herein called "Lessor," (whether one or more and when referred to by pronoun the singular neuter gender will be used), and RICHFIELD OIL CORPORATION, herein called "Lessee,"

W I T N E S S E T H :

That in consideration of the payment by Lessee of the rent herein specified and of the mutual covenants herein contained, Lessor hereby demises and leases unto Lessee and Lessee takes and rents from Lessor that certain real estate situated in the City of County of State of described as follows:

together with all appurtenances thereunto belonging, and together also with the buildings, facilities, equipment and other improvements located thereon and listed in the inventory hereto attached marked "Exhibit A," which inventory is by this reference incorporated in this lease and made a part hereof for all purposes, and with all other improvements, if any, hereafter erected or placed thereon by Lessee.

TO HAVE AND TO HOLD the above demised and leased real estate and improvements (hereinafter referred to collectively as "premises"), and all rights, privileges and appurtenances thereunto belonging, unto Lessee, its successors and assigns, for the term commencing the day of 19 and ending the day of 19 , unless this lease shall be sooner terminated in a manner herein provided.

The following shall constitute the covenants of this lease, and the parties hereto agree as follows:

1. Lessee shall pay as full rental for said real and personal property during the effective term of this lease the following amounts at the following times:

All rent shall be paid in lawful money of the United States by check or draft to the order of Lessor and mailed to

or to such other address as Lessor may from time to time designate in writing.

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum products upon the demised premises or the operation of a gasoline service station thereon is prevented by law, or the whole or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon is taken for public use, this lease shall forthwith terminate.

3. Lessee shall use the demised premises and improvements with due and reasonable care and on termination hereof shall deliver up said premises and improvements unto Lessor in good order and condition, damage and depreciation due to reasonable use, ordinary wear and tear, fire, storm, flood, earthquake, action of the elements, strike, riot, labor disturbances, war and unavoidable casualties and matters beyond the control of Lessee excepted. Lessee agrees to commence, within ten (10) days after receipt of notice in respect thereto from Lessor, all repairs and/or replacements necessary in order to keep and maintain the leased property in a suitable condition for the operation by Lessee of a gasoline service station.

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4. Lessee shall have the right and privilege of erecting, placing, operating and maintaining on said premises all buildings, structures, improvements, driveways, tanks, remainers, piping, signs, appliances and equipment of any nature on, under and above the ground that it may / make or desire to use in operating, transacting and conducting on said premises the business of storing, marketing and distributing petroleum products and automotive accessories by means of a gasoline and oil filling and service station, or by other marketing methods, and by any other business incident to (like) of a service station; it being understood that Lessee is not hereby restricted from using said premises for any other lawful purpose. Lessee shall have the further right and privilege of painting all or any part of the property leased hereunder so long as said property is not thereby unreasonably damaged; and Lessee may make such changes as it desires to any existing structures and improvements, but any structural alterations or changes made to improvements belonging to Lessor shall become part of the real estate and may not be removed by Lessee at the end of the term of this lease.

5. At any time during the term of this lease and upon termination thereof by lapse of time or in any manner and within a reasonable time thereafter Lessee may, at its option and expense, remove from said premises any and all buildings, structures, improvements, money safes or checks, equipment, appliances or other property of whatsoever nature placed or owned by it thereon, whether or not affixed to the premises or to any improvement on the premises (except alterations made to Lessor's improvements), and after such removal shall restore the surface of the ground to its uniform and even condition, free from all excavations and debris and within said time Lessee at its option may paint out and/or otherwise remove from the premises its trade colors together with all trade signs, names and insignia, including signs and insignia belonging to Lessee, and irrespective of the manner in which said signs and insignia are attached to the premises, provided, however, that if Lessee at such time shall be in default in the payment of rents or any other charges hereunder, Lessee shall have a lien on said buildings, structures and improvements to secure payment of such rents or charges. Should Lessee fail to remove any buildings, structures and other property belonging to it located upon the demised premises within a reasonable time after such termination of this lease, title to the same shall pass to Lessor.

6. Lessee shall have the right to make proper connections with any and all water, gas and power lines and pipe lines on or serving the demised premises, and may continue the use and service thereof during the term of this lease. Lessee shall be liable for and agrees to pay all charges for water, gas, electric current, telephone and any other public utility or service used by it.

7. Lessee agrees to pay before delinquency all general and special taxes and special assessments with respect to the premises leased hereunder. Lessee agrees to pay all taxes levied and assessed or to be levied and assessed upon its own improvements and property located on said premises, it being understood that Lessee shall not be liable for any special taxes or special assessments save with respect to Lessee's own property.

8. Lessor agrees not to conduct or permit to be conducted on premises controlled by Lessor, if any, within two hundred (200) yards of the premises demised and leased, any business venture from which petroleum products other than those supplied by Lessee are sold or distributed.

9. Lessor warrants that title to the premises demised hereby is vested in Lessor, free and clear of all liens, clouds and encumbrances except and current taxes not delinquent, and that there are no municipal or other governmental restrictions, leases or other agreements with respect to said premises that would affect the use of all or any part thereof for a gasoline service station. In the event Lessor's interest in the demised premises is a leasehold interest Lessor agrees to faithfully fulfill and perform the terms of the lease to which this lease is subject so as not to cause any default of Lessor in any of the terms thereof. Lessor shall be liable to Lessee for any damages suffered by Lessee by virtue of a termination of any such prior lease, arising out of default of Lessor herein thereunder.

10. In the event Lessee shall be in default in the payment of rentals or other charges hereunder or shall otherwise breach its covenants or obligations hereunder, and shall be and remain in default for a period of thirty (30) days after notice from Lessor to it of such default, Lessor shall have the right and privilege of terminating this lease and declaring the same at an end and of entering upon and taking possession of said premises, and shall have the remedies now or hereafter provided by law for recovery of rent, repossession of the premises and damages occasioned by such default.

In the event Lessor shall breach or be in default in the performance of any of the covenants or obligations on it herein imposed, and shall remain in default for a period of thirty (30) days after notice from Lessee to it of such default, Lessee shall have the right and privilege of terminating this lease and declaring the same at an end, and/or shall have the remedies now or hereafter provided by law for recovery of damages occasioned by such default.

The waiver by either party of any breach of this lease by the other, or of any right to which such party is entitled, shall not be deemed a waiver by such party in any other instance, or for any other breach or right.

In any action between the parties hereto, their successors or assigns, for a breach or for the enforcement of any of the terms or conditions of this lease, a reasonable attorney's fee, to be fixed by the court, shall be added to and be made a part of the recoverable costs in such action, in favor of the successful party.

11. If at any time during the term hereof Lessee, or if there be more than one, any Lessee, shall be indebted to Lessor on any account whatsoever, Lessor shall have the right to apply any rental accrued or accruing upon said unpaid indebtedness and Lessee agrees that the amount so applied shall constitute rental payment hereunder. In particular, but without limitation as to the foregoing, Lessee may offset against rentals payable hereunder rentals payable by Lessor to Lessee under any sublease of the property leased hereunder.

12. In the event Lessor during the term hereof receives from a third party a bona fide offer to purchase the leased premises, or any part thereof, or any buildings of Lessor of which the leased premises are a part, and shall decide to sell the same for the amount named in said offer, Lessor shall promptly give to Lessee written notice of the terms of such offer and of Lessor's willingness to sell for the price offered, and Lessee shall have the option and privilege of purchasing the premises subject to such offer at said price and shall notify Lessor in writing within ten (10) days after the date it receives notice from Lessor whether Lessee will purchase said premises for the amount specified in said offer. In the event Lessee shall not give Lessor notice within said ten (10) day period of Lessee's election to purchase for the amount specified in said offer, Lessor may thereafter sell said premises to the party making the offer, subject, however, to the leasehold estate and rights herein granted to Lessee, irrespective of whether or not said premises are sold to such party, notice of any subsequent bona fide offers acceptable to Lessor shall be given to Lessee upon the same terms and conditions for acceptance or refusal, as hereinabove provided.

13. In the event of any termination of that certain Operator's Lease, executed concurrently herewith by and between the parties hereto, by the terms of which Lessee herein as Lessor therein subleases the premises demised hereby to Lessor herein as Lessee therein, Lessor shall be privileged to forthwith terminate this lease by means of a notice in writing to Lessee. Any notice of the aforesaid nature may be served by Lessee at any time after but not before any termination of said Operator's Lease.

14. All notices given under this instrument shall be in writing and may be given by depositing the notice in the United States registered mail, postage prepaid, enclosed in an envelope addressed to the party to be notified at such party's address as shown in this instrument, or at any other known address of any Lessor, and the date upon which such notice is so mailed shall be treated as the date of service; or such notice may be served on Lessor in person or on an officer or manager of Lessee. If there be more than one Lessor, notice to any of them shall constitute notice to all.

15. This agreement and each and all of the covenants, obligations and conditions hereof, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of Lessor, and the successors and assigns of Lessee. Although designated in the singular number as "Lessor," if there be more than one, they and each of them shall be jointly and severally bound by the obligations, conditions and covenants herein imposed. Lessee may assign this lease or sublet the premises or any part thereof without the consent of Lessor, but in the event of any such assignment or subletting Lessee shall at all times remain liable to Lessor for payment of rents and for the faithful performance of all obligations imposed upon Lessee hereunder.

16. The parties hereto agree that neither the making, execution nor delivery of this lease has been induced by any representation, statement, warranty or agreement other than those herein expressed, and that all prospects, negotiations and representations with reference to matters covered by this lease are merged in this instrument. The parties understand and agree that regardless of any partial performance or other circumstance, this lease shall not become binding upon Lessee until it has been signed on its behalf by its President, Vice President or duly authorized agent, and that no amendment or modification hereof shall be valid unless evidenced in writing and signed by one of such officers or agents.

IN WITNESS WHEREOF, the parties hereto have executed this lease the day and year first above written.

_____

_____
Lessor

RICHFIELD OIL CORPORATION,

By _____
Lessee

Government Exhibit 4-A

3-C
OPERATOR'S
LEASE

THIS LEASE, executed this day of 19 between RICHFIELD OIL CORPORATION, herein called "Lessor," and herein called "Lessee," (whether one or more and when referred to by pronoun the singular neuter gender will be used).

WITNESSETH:

That in consideration of the payment by Lessee of the rent herein specified and of the mutual covenants herein contained, Lessor hereby demises and leases unto Lessee and Lessee takes and rents from Lessor those certain premises in the City of County of , State of , more particularly described on the reverse side hereof in paragraph numbered "15" hereof, together with all appurtenances thereunto belonging, and together also with the buildings, facilities and equipment embraced within the terms of the lease referred to in paragraph numbered "15" hereof, and such buildings, facilities and equipment as may be placed upon said premises by Lessor herein under and pursuant to said latter lease.

TO HAVE AND TO HOLD unto Lessee for the term commencing the day of 19 and ending the day of 19 unless this lease shall be sooner terminated in a manner herein provided.

The following shall constitute the covenants of this lease, and the parties hereto agree as follows:

1. Lessee shall pay to Lessor as rent for said real and personal property during the effective term of this lease the amounts set forth on the reverse side hereof in paragraph numbered "16" hereof, at the times and in the manner as in said paragraph provided.

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum upon the demised premises or the operation of a gasoline service station thereon is prevented by law, or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon, is taken for public use, this lease shall forthwith terminate.

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, fixtures and equipment in good order and repair and in a clean and safe condition at Lessee's cost and expense. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make necessary repairs for the account of Lessee and/or may terminate this lease. Lessee shall make no change, alteration or substitution in the demised premises, improvements, buildings, fixtures and equipment except such as may be necessary to enable Lessee to continue business on said premises, unless the consent in writing of Lessor be first obtained.

4. Upon the expiration or sooner termination of this agreement Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and depreciation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair.

5. Should any of the improvements on the demised premises be destroyed by act of God, fire, explosion, the elements or any cause not due to the negligence, neglect or willful act of Lessee and be thereby rendered unsatisfactory for the conduct of Lessee's business thereon, Lessee shall be privileged to terminate this lease or repair the premises, in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

6. During the occupancy of the demised premises Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any liens to attach to the demised premises. Lessee shall also pay the total amount of all taxes and assessments levied or imposed against all property of Lessee located on the premises. Upon failure of Lessee in this respect Lessor may, but shall not be obligated to, pay such taxes and/or charges and add the same to the rental payable hereunder.

7. In the event Lessee shall at any time during the term hereof be in default in respect to the payment of rent herein provided or in respect to the performance of any other of the provisions hereof, or should Lessee abandon or vacate the demised premises, Lessor shall be privileged at its option to resume possession of the demised premises, with or without process of law; thereupon, at Lessor's option, this lease and all of the rights of Lessee hereunder shall forthwith terminate. In the event of such re-entry by Lessor, Lessor shall be privileged to possess and to hold all property of Lessee which may be situated on the demised premises as a pledge to secure payment by Lessee of any sum or sums which may be due or owing to Lessor by Lessee on any account or accounts whatever. The foregoing remedies shall be in addition to those now or hereafter provided by law.

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sublet any part of the demised premises without the written consent of Lessor first having been obtained. This lease shall not become an asset of the estate of Lessee but shall terminate on his death.

10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occurring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees thereon or thereabout during the term hereof.

11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all the terms, provisions and conditions contained in that certain lease dated the day of 19 by and between as lessor, and as lessee (to whose interest Lessee herein has succeeded). The expiration, relinquishment or termination of said lease for any cause whatsoever, or any transfer, re-assignment or relinquishment by Lessee of its interest in said lease of the demised premises shall of itself result in the termination of this lease without any notice or action whatever on the part of Lessor or Lessee herein. Any termination hereof shall be without any liability on the part of Lessor, and in the event of such termination Lessor shall be obligated only to return to Lessee any rent paid in advance hereunder, which obligation shall exist only in the event that at the time of such termination Lessee shall not be in default in respect to any of the provisions hereof.

12. In the event of any termination of that certain Operator's Sales Contract executed concurrently herewith by and between the parties hereto, covering the purchase and sale of Lessee's entire requirements of certain petroleum products for resale from the premises demised hereby, Lessor shall be privileged to terminate this lease by means of a five (5) day notice in writing to Lessee.

13. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises, or to Lessee at 555 South Flower Street, Los Angeles 13, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

14. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof delivered to Lessee.

IN WITNESS WHEREOF, the parties have executed this lease as of the date first hereinabove written.

RICHFIELD OIL CORPORATION,

By

Lessor

Lessee

3-C
OPERATOR'S
SALES CONTRACT

THIS AGREEMENT, executed this day of , 19 between RICHFIELD OIL CORPORATION, hereinafter referred to as "Seller," and

hereinafter referred to as "Buyer," (whether one or more and when referred to by pronoun the singular neuter gender will be used).

WITNESSETH: THAT

1. Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase from Seller, during the period commencing 19 and ending , 19 , Buyer's entire requirements of the following automotive petroleum products for resale from the service station hereinafter mentioned, provided, however, that in no event shall Buyer purchase and receive during any calendar month of the term hereof less than the minimum quantities specified below:

	Minimum
GASOLINES	gals.
LUBRICATING OILS	gals.
GREASES	lbs.

2. The products agreed to be sold and delivered hereunder are for resale by Buyer to the retail trade. Buyer agrees not to resell any of the products delivered hereunder which bear, or the label or container of which bears, the trade mark, brand or name of Seller or which is sold through pumps or other vending equipment bearing the trade mark, brand or name of Seller, except at the price designated by Seller as the resale price at such pump. Seller shall have the right to change the designated resale price of any of the products to be delivered hereunder at any time or from time to time during the term hereof by written or oral notice directed to Buyer. Attached hereto marked "Schedule A" and hereby made a part of this contract is a schedule of the products to be delivered hereunder as of the date of commencement of this contract, but opposite the name of each gasoline listed in said Schedule A is a price which Seller hereby designates as the resale price of such gasoline effective at the execution of this contract and until further notice. Seller reserves the right to designate resale prices for all other products listed in said Schedule A for which prices are not designated. Seller shall have the right at any time and from time to time during the term hereof to add to the products listed on said Schedule A any other brand of gasoline, lubricating oils and greases which it may hereafter purchase and manufacture and to designate a resale price therefor, and Seller shall also have the right at any time and from time to time during the term hereof to discontinue sale of any of the products listed in said Schedule A and in such event this agreement shall terminate as to such products but shall remain effective for all other purposes. Seller reserves the right at any time or from time to time to change the specifications of any product to be sold and delivered hereunder.

3. The prices to be paid by Buyer to Seller for Seller's Ethyl or Flyt Structure Gasoline and Seller's Hi-Octane or Dynaflyt Structure Gasoline shall be Seller's designated resale prices thereof at time and place of delivery to Buyer, less 4 per gallon. Should Seller elect to market a Flyt Structure Gasoline the price thereafter shall be Seller's designated resale price thereof at time and place of delivery to Buyer, less 3¢ per gallon. Seller shall have the right to change its said designated resale prices at any time or from time to time during the term hereof by written or oral notice directed to Buyer.

Prices to be paid by Buyer to Seller for products other than gasoline delivered hereunder shall be Seller's posted or list prices to service station dealers in effect at the time and place of delivery. Seller's posted or list prices to service station dealers in respect to such products are set forth in Schedule A hereof. The posted price of any such product shall be subject to change by Seller at any time and from time to time during the term hereof.

4. Deliveries hereunder shall be made to Buyer's service station at , State of . All gasoline sold hereunder shall be delivered by tank truck, tank trunk and trailer, or such other method of delivery as Seller shall select, and Buyer agrees to maintain storage, which shall conform with all laws and governmental regulations, into which said gasoline may be delivered.

5. In addition to the prices herein provided, Buyer shall pay Seller any and all taxes, increase in taxes or new taxes not included in the prices herein specified on the products covered by this agreement and/or on and/or measured by the production, manufacture, transportation, sale, use and/or other handling of said products.

6. Buyer shall pay Seller cash on delivery for all products delivered hereunder unless otherwise mutually agreed upon from time to time. No shortages or credit shall prevent Seller from returning at any time, at Seller's election, to a cash on delivery basis.

7. Failure or refusal of Buyer to strictly comply with the terms of this agreement or to promptly make payment when due on all products delivered hereunder shall entitle Seller to suspend deliveries until any breach is remedied or payment is made, or to forthwith terminate this agreement.

8. Seller shall be privileged at any time and from time to time during the term hereof to paint in its colors and lettering the buildings and equipment constituting the service station mentioned in paragraph numbered "4" hereof. In the event of any termination of this agreement prior to the expiration date set forth in paragraph numbered "1" hereof Buyer shall forthwith pay to Seller a sum equal to the total of all monies expended by Seller in performing such painting during the two (2) year period preceding such termination.

9. In the event that performance on the part of the Seller of any or all of the terms of this agreement is prevented or impeded in whole or in part, or in the event that the cost of such performance by Seller is abnormally increased by reason of acts of God, acts of public enemies, war, governmental regulations or restrictions, strikes, labor disturbances, perils of the sea, riots, fires, floods, earthquakes, embargoes, inability to obtain supplies or labor, loss or shortage of producing, manufacturing or transportation facilities and/or any other cause or causes beyond Seller's control, or in the event, by reason of statute, law, ordinance, order, mandate, decision, judgment, decree, rule or regulation of any governmental body, board, tribunal, court or official, whether specifically directed against Seller or Buyer hereunder or this contract or operations hereunder, or otherwise, performance hereunder is interfered with or regulated, or any loss or disadvantage is suffered by Seller due to an enforced or permitted reduction in prices or imposition of liability or penalty under or in connection with any other contract because of the existence of this contract, performance by Seller hereunder shall be excused and/or Seller shall be privileged to forthwith terminate this agreement without any liability whatever on its part. Failure of Seller to fill any order or orders for reasons of aforesaid causes shall reduce the purchase obligations of Buyer to that extent. In the event that Seller is unable to make delivery to all of its customers by reason of any of the causes set forth in this paragraph and yet is able to make some deliveries, its failure to make deliveries in whole or in part to Buyer, even while making deliveries of the same or similar commodities to other buyers or consignees or to its own bulk storage and distributing plants, plants or distributors for sale and delivery to the general public, shall not constitute a default by Seller.

10. Buyer agrees to comply with all laws, statutes, and ordinances of all governmental authorities.

11. Neither this agreement nor any of the rights, powers or privileges of Buyer hereunder shall be assignable by Buyer without the written consent of Seller.

12. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Buyer at the address specified in paragraph 4 hereof, or to Seller at 555 South Flower Street, Los Angeles 13, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Buyer.

13. In the event by reason of statute, law, ordinance, order, mandate, decision, judgment, decree, rule or regulation of any governmental authority, bureau, tribunal, court or official, whether specifically directed against either party hereto or this contract or the 3-C transaction of which this contract is a part, or operations hereunder, or otherwise, performance hereunder is interfered with or regulated, or any loss or disadvantage is suffered by Seller due to an enforced or resultant reduction in prices or imposition of any penalty under or in connection with any other contract because of the existence of this contract or said 3-C transaction, Seller may forthwith terminate any or all instruments constituting said 3-C transaction.

14. Buyer hereby acknowledges execution hereof without reliance upon any representations, warranties, promises or assurances other than those written herein.

15. This agreement terminates as of the date of commencement hereof all contracts between the parties hereto, or their assignees, covering sale and delivery of petroleum products to Buyer's service station the day and year first hereinabove written.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION,

By
Seller

Buyer

265

FORM 703 — 6-48

3-C
OPERATOR'S
SALES CONTRACT

THIS AGREEMENT, executed this day of 19 between RICHFIELD OIL CORPORATION, hereinafter referred to as "Seller," and hereinafter referred to as "Buyer," (whether one or more and when referred to by pronoun the singular neuter gender will be used).

WITNESSETH: THAT

1. Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase from Seller, as ordered by Buyer during the period commencing , 19 , and ending , 19 , the following petroleum products in calendar monthly quantities not greater than the maximum nor less than the minimum amounts hereinbelow specified. For fractional monthly periods said amounts will be duly prorated.

	Minimum	Maximum
GASOLINES	..... gals.	..... gals.
LUBRICATING OILS	..... gals.	..... gals.
GREASES	..... lbs.	..... lbs.

The above quantities represent those to be purchased and sold under normal business conditions and in the event, because of climatic or other conditions Buyer's sales are abnormally less during certain months of the year, the aforesaid quantities will be proportionately reduced for said months based upon previous business experience of Buyer's station or of business generally in the vicinity in the event Buyer's station has had no previous business experience.

2. The products agreed to be sold and delivered hereunder are for resale by Buyer to the retail trade. Buyer agrees not to resell any of the products delivered hereunder which bear, or the label or container of which bears, the trade mark, brand or name of Seller or which is sold through pumps or other vending equipment bearing the trade mark, brand or name of Seller, except at the price designated by Seller as the resale price of such product. Seller shall have the right to change the designated resale price of any of the products to be delivered hereunder at any time or from time to time during the term hereof by written or oral notice directed to Buyer. Attached hereto marked "Schedule A" and hereby made a part of this contract is a schedule of the products to be delivered hereunder as of the date of commencement of this contract. Set opposite the name of each gasoline listed in said Schedule A is a price which Seller hereby designates as the resale price of such gasoline effective at the execution of this contract and until further notice. Seller shall the right to designate resale prices for all other products listed in said Schedule A for which prices are not designated. Seller shall have the right at any time and from time to time during the term hereof to add to the products listed on said Schedule A any other brand of gasoline, lubricating oils and greases which it may hereafter produce and manufacture and to discontinue sale of any of the products listed in said Schedule A and in such event this agreement shall terminate as to such products but shall remain effective for all other Seller shall also have the right at any time and from time to time during the term hereof to designate a resale price therefor, and purposes. Seller reserves the right at any time or from time to time to change the specifications of any product to be sold and delivered hereunder.

3. The prices to be paid by Buyer to Seller for Seller's Ethyl or First Structure Gasoline and Seller's Hi-Octane or Second Structure Gasoline shall be Seller's designated resale prices thereof at time and place of delivery to Buyer, less 4¢ per gallon. Should Seller elect to market a Third Structure Gasoline the price therefor shall be Seller's designated resale price thereof at time and place of delivery to Buyer, less 3¢ per gallon. Seller shall have the right to change its said designated resale prices at any time or from time to time during the term hereof by written or oral notice directed to Buyer

Prices to be paid by Buyer to Seller for products other than gasoline delivered hereunder shall be Seller's posted or list prices to service station dealers in effect at the time and place of delivery. Seller's posted or list prices to service station dealers in respect to such products are set forth in Schedule A hereof. The posted price of any such product shall be subject to change by Seller at any time and from time to time during the term hereof.

4. Deliveries hereunder shall be made to Buyer's service station at , State of . All gasoline sold hereunder shall be delivered by tank truck, tank truck and trailer, or such other method of delivery as Seller shall select, and Buyer agrees to maintain storage, which shall conform with all laws and governmental regulations, into which said gasoline may be delivered.

5. In addition to the prices herein provided, Buyer shall pay Seller any and all taxes, increase in taxes or new taxes not included in the prices herein specified on the products covered by this agreement and/or on and/or measured by the production, manufacture, transportation, sale, use and/or other handling of said products.

6. Buyer shall pay Seller cash on delivery for all products delivered hereunder unless otherwise mutually agreed upon from time to time. No allowance of credit shall prevent Seller from returning at any time, at Seller's election, to a cash on delivery basis.

7. Failure or refusal of Buyer to strictly comply with the terms of this agreement or to promptly make payment when due on all products delivered hereunder shall entitle Seller to suspend deliveries until any breach is remedied or payment is made, or to forthwith terminate this agreement.

8. Seller shall be privileged at any time and from time to time during the term hereof to paint in its colors and insignia the buildings and equipment constituting the service station mentioned in paragraph numbered "4" hereof. In the event of any termination of this agreement prior to the expiration date set forth in paragraph numbered "1" hereof Buyer shall forthwith pay to Seller a sum equal to the total of all monies expended by Seller in performing such painting during the two (2) year period preceding such termination.

9. In the event that performance on the part of the Seller of any or all of the terms of this agreement is prevented or impeded in whole or in part, or in the event that the cost of such performance by Seller is abnormally increased by reason of acts of God, acts of public administrators, war, governmental regulations or restrictions, strikes, labor disturbances, perils of the sea, riots, fires, floods, earthquakes, embargoes, inability to obtain supplies or labor, loss or shortage of producing, manufacturing or transportation facilities and/or any other cause or causes beyond Seller's control, or in the event, by means of statute, law, ordinance, order, mandate, decision, judgment, decree, rule or regulation of any governmental body, board, tribunal, court or official, whether specifically directed against Seller or Buyer hereunder or this contract or operations hereunder, or otherwise, performance hereunder is interfered with or regulated, or any loss or disadvantage is suffered by Seller due to an enforced or resultant reduction in prices or incurrence of liability or penalty under or in connection with any other contract because of the existence of this contract, performance by Seller hereunder shall be excused and/or Seller shall be privileged to forthwith terminate this agreement without any liability whatever on its part. Failure of Seller to all any order or orders by reason of the aforesaid causes shall reduce the purchase obligations of Buyer to that extent. In the event that Seller is unable to make delivery to all of its customers by reason of any of the causes set forth in this paragraph and yet is able to make some deliveries, its failure to make deliveries in whole or in part to Buyer, even while making deliveries of the same or similar commodities to other buyers or consignees or to its own bulk storage and distributing plants, agents and distributors for sale and delivery to the general public, shall not constitute a default by Seller.

10. Buyer agrees to comply with all laws, statutes, and ordinances of all governmental authorities.

11. Neither this agreement nor any of the rights, powers or privileges of Buyer hereunder shall be assignable by Buyer without the written consent of Seller.

12. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Buyer at the address specified in paragraph 4 hereof, or to Seller at 555 South Flower Street, Los Angeles 13, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Buyer.

13. In the event by means of statute, law, ordinance, order, mandate, decision, judgment, decree, rule or regulation of any governmental authority, board, tribunal, court or official, whether specifically directed against either party hereto or this contract or the 3-C transaction of which this contract is a part, or operations hereunder, or otherwise, performance hereunder is interfered with or regulated, or any loss or disadvantage is suffered by Seller due to an enforced or resultant reduction in prices or incurrence of any penalty under or in connection with any other contract because of the existence of this contract or said 3-C transaction, Seller may forthwith terminate any or all instruments constituting said 3-C transaction.

14. Buyer hereby acknowledges execution hereof without reliance upon any representations, warranties, promises or assurances other than those written herein.

15. This agreement terminates as of the date of commencement hereof all contracts between the parties hereto, or their assignors, covering sale and delivery of petroleum products to Buyer's service station described in paragraph 4 hereof.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first hereinabove writ .

RICHFIELD OIL CORPORATION,

By_____ Seller

_____ Buyer

3962

THIS PAGE BOUND VERTICAL IN BOOK

Government Exhibit 4-D

3-C
OPERATOR'S
LEASE

THIS LEASE, executed this day of 19 , between RICHFIELD OIL CORPORATION, herein called "Lessor," and herein called "Lessee," (whether one or more and when referred to by pronoun the singular neuter gender will be used).

WITNESSETH:

That in consideration of the payment by Lessee of the rent herein specified and of the mutual covenants herein contained, Lessor hereby demises and leases unto Lessee and Lessee takes and rents from Lessor those certain premises in the City of , State of , County of more particularly described on the reverse side hereof in paragraph numbered "15" hereof, together with all appurtenances thereunto belonging, and together also with the buildings, facilities and equipment embraced within the terms of the lease referred to in paragraph numbered "11" hereof, and such buildings, facilities and equipment as may be placed upon said premises by Lessor herein under and pursuant to said latter lease.

TO HAVE AND TO HOLD unto Lessee for the term commencing the day of 19 and ending the day of 19 unless this lease shall be sooner terminated in a manner herein provided.

The following shall constitute the covenants of this lease, and the parties hereto agree as follows:

1. Lessee shall pay to Lessor as rent for said real and personal property during the effective term of this lease the amounts set forth on the reverse side hereof in paragraph numbered "16" hereof, at the times and in the manner as in said paragraph provided.

2. The improvements, buildings and facilities erected and located on the demised premises are designed for the operation of a gasoline service station thereon, and Lessee shall use the demised premises and property primarily for such purpose; and in no event shall said premises be used for any unlawful or offensive purpose, nor shall Lessee commit any nuisance thereon. In the event the sale of gasoline or other petroleum upon the demised premises or the operation of a gasoline service station thereon is prevented by law, or the whole, or such part of the demised premises as will render the balance thereof unsatisfactory for the operation of a gasoline service station thereon, is taken for public use, this lease shall forthwith terminate.

3. Lessee shall, during the term hereof, maintain the demised premises, improvements, buildings, fixtures and equipment in good order and repair and in a clean and safe condition at Lessee's cost and expense. In the event of Lessee's failure so to do, Lessor may enter upon the demised premises and make necessary repairs for the account of Lessee and/or may terminate this lease.

4. Upon the expiration or sooner termination of this agreement Lessee shall yield up and return to Lessor the demised premises, improvements, buildings, fixtures and equipment in as good condition as when received by Lessee, damage and depreciation due to ordinary wear and use excepted; and shall pay Lessor the cost of restoring the premises, improvements, buildings, fixtures and equipment to the condition in which they were at the time when received by Lessee, damage and depreciation due to ordinary wear and use excepted, together with the value of any equipment lost or damaged beyond repair.

5. Should any of the improvements on the demised premises be destroyed by act of God, fire, explosion, the elements or any cause not due to the negligence, neglect or willful act of Lessee and be thereby rendered unsatisfactory for the conduct of Lessee's business thereon, Lessor shall be privileged to terminate this lease or repair the premises, in which event rent payable by Lessee hereunder shall be abated for the time and to the extent that he is prevented from using the premises or any part thereof.

6. During the occupancy of the demised premises Lessee shall pay all charges accruing for gas, water, electricity, telephone and other public utilities, and shall not permit any liens to attach to the demised premises. Lessee shall also pay the total amount of all taxes and assessments levied or imposed against all property of Lessee located on the premises. Upon failure of Lessee in this respect Lessor may, but shall not be obligated to, pay such taxes and/or charges and add the same to the rental payable hereunder.

7. In the event Lessee shall at any time during the term hereof be in default in respect to the payment of rent herein provided or in respect to the performance of any other of the provisions hereof, or should Lessee abandon or vacate the demised premises, Lessor shall be privileged at its option to resume possession of the demised premises, with or without process of law; thereupon, at Lessor's option, this lease and all of the rights of Lessee hereunder shall forthwith terminate. In the event of such re-entry by Lessor, Lessor shall be privileged to possess and to hold all property of Lessee which may be situated on the demised premises as a pledge to secure payment by Lessee of any sum or sums which may be due or owing to Lessor by Lessee on any account or accounts whatever. The foregoing remedies shall be in addition to those now or hereafter provided by law.

8. The waiver of any breach hereunder shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or a different provision of this agreement.

9. This lease shall not be assignable, voluntarily or by operation of law, nor shall Lessee sublet any part of the demised premises without the written consent of Lessor first having been obtained. This lease shall not become an asset of the estate of Lessee but shall terminate on his death.

10. Lessee agrees to indemnify and hold Lessor free and harmless from any and all claims for damage to property or injury to or death of person or persons occurring upon the demised premises or arising out of any of the operations of Lessee, his agents or employees, thereon or thereabout during the term hereof.

11. Although this instrument is designated as a lease, it is nevertheless understood that it is in fact a sublease and is subordinate and subject to all the terms, provisions and conditions contained in that certain lease dated the day of 19 , by and between as lessor, and as lessee (to whose interest Lessor herein has succeeded). The expiration, relinquishment or termination of said lease for any cause whatsoever, or any transfer, re-assignment or relinquishment by Lessor of its interest in said lease of the demised premises shall of itself result in the termination of this lease without any notice or action whatever on the part of Lessor or Lessee herein. Any termination hereof shall be without any liability on the part of Lessor, and in the event of such termination Lessor shall be obligated only to return to Lessee any rent paid in advance hereunder, which obligation shall exist only in the event that at the time of such termination Lessee shall not be in default in respect to any of the provisions hereof.

12. In the event of any termination of that certain Operator's Sales Contract executed concurrently herewith by and between the parties hereto, covering the purchase and sale of certain petroleum products for resale from the premises demised hereby, Lessor shall be privileged to terminate this lease by means of a seven (7) day notice in writing to Lessee.

13. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Lessee at the address of the demised premises, or to Lessor at 555 South Flower Street, Los Angeles 13, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Lessee.

14. This agreement shall not be binding upon Lessor until executed by a duly authorized officer or agent of Lessor and a fully executed copy hereof delivered to Lessee.

IN WITNESS WHEREOF, the parties have executed this lease as of the date first hereinabove written.

RICHFIELD OIL CORPORATION,

By.....
Lessor

.....

.....
Lessee

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Government Exhibit 5

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RICHFIELD OIL CORPORATION
SALES CONTRACT

THIS AGREEMENT, executed this day of , 19 , between

RICHFIELD OIL CORPORATION, hereinafter referred to as "Seller", and

hereinafter referred to as "Buyer",

WITNESSETH:

1. Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase from Seller, as ordered by Buyer during the term hereof, the following petroleum products, in quantities not greater than the maximum nor less than the minimum amounts hereinbelow specified for the respective products, the same to be taken in fairly equal monthly quantities.

	Maximum	Minimum
GASOLINE	gals.	gals.
LUBRICATING OILS	gals.	gals.
GREASES	lbs.	lbs.

2. The prices for products sold and delivered hereunder shall be Seller's posted prices to Service Station Dealers in effect at time and place of delivery. Seller's posted prices to Service Station Dealers as of the date hereof at the point of delivery specified in Paragraph "4" are as set forth in Schedule "A" hereof. Said prices shall be subject to change by Seller from time to time during the term hereof.

3. The products agreed to be sold and delivered hereunder are for sale to the retail trade and not for consumption. Should Seller at any time during the term hereof elect to discontinue sale to the retail trade of any of the products listed in Schedule "A" hereof, this agreement shall terminate as to such products but shall remain effective for all other purposes.

4. Deliveries hereunder shall be made to Buyer's service station at

5. This agreement shall commence as of the day of , 19 , and shall continue for a period of one year thereafter; provided, however, that Seller may terminate the same at any time by a five (5) days' notice in writing directed to Buyer.

6. In addition to the prices herein provided, Buyer shall pay Seller any and all taxes, increase in taxes or new taxes not included in the prices herein specified, on the products covered by this agreement and or the production, manufacture, transportation, sale, use, and or other handling of said products.

7. Buyer shall pay Seller cash on delivery for all products delivered hereunder, unless otherwise mutually agreed upon from time to time. No allowance of credit shall prevent Seller from returning at any time at Seller's election to a cash on delivery basis.

8. Failure or refusal of Buyer to comply with the terms of this agreement or to promptly make payment when due on all products delivered hereunder shall entitle Seller to suspend deliveries until any breach is remedied or payment is made, or to forthwith terminate this agreement.

9. In the event that performance on the part of Seller of any or all of the terms of this agreement is prevented or impeded in whole or in part, or in the event that the cost of such performance by Seller is abnormally increased, by reason of acts of God, acts of public administrators, war, governmental regulations or restrictions, strikes, labor disturbances, perils of the sea, riots, fires, floods, earthquakes, embargoes, inability to obtain supplies or labor, loss or shortage of products during manufacturing or transportation facilities and or any other cause or causes beyond Seller's control, performance by Seller hereunder shall be excused without any liability whatever on its part.

10. If Buyer purchases Ethyl or ethyl-treated gasoline hereunder, he shall sell said gasoline in accordance with the rules and regulations prescribed by the Surgeon General of the United States and other Health Officers, and shall procure the licenses required by the Ethyl Gasoline Corporation. Unless Buyer complies with the terms and provisions of this paragraph, Seller shall not be obligated to sell or deliver Ethyl or ethyl-treated gasoline hereunder.

11. Neither this agreement nor any of the rights, powers or privileges of Buyer hereunder shall be assignable by Buyer without written consent of Seller.

12. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Buyer at the address specified in Paragraph "4" hereof, or to Seller at 555 South Flower Street, Los Angeles, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Buyer.

13. Buyer hereby acknowledges execution hereof without reliance upon any representations, warranties, promises or assurances other than those written herein.

IN WITNESS WHEREOF the parties have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION

By

Seller

Buyer

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RICHFIELD OIL CORPORATION
PAINTING AGREEMENT

THIS AGREEMENT, made this .....day of .....19 ....., between RICHFIELD OIL CORPORATION, herein called "Richfield", and ..... herein called "Dealer",

WITNESSETH:

THAT WHEREAS, Richfield as Seller, and Dealer as Buyer, have entered into a Sales Contract dated the .....day of ....., 19....., for the term of one year commencing on the .....day of ....., 19..., under the terms of which Dealer as Buyer thereunder agreed to purchase and receive certain stated quantities of Richfield gasolines, lubricating oils and greases for resale at Dealer's service station located at .....; and

WHEREAS, Dealer desires to have the service station buildings at said location painted in Richfield colors and designs and Richfield is willing, on certain conditions hereinafter set forth, to furnish the necessary work, labor and material and to paint the aforesaid service station buildings;

NOW, THEREFORE, in consideration of the premises and of the covenants of the parties hereto, it is agreed:

1. That Richfield shall paint the aforesaid service station buildings at said location and furnish the necessary work, labor and materials therefor at a maximum cost of $.....

2. That Dealer shall pay to Richfield at the time of and upon any termination by Richfield of the above mentioned Sales Contract by reason of the breach by Dealer as Buyer thereunder of any of the terms, covenants or conditions therein contained, the sum of $ ..... for said work, labor and materials, together with a reasonable sum as attorneys fees in the event suit is instituted by Richfield to collect said sum, or any part thereof.

3. That in the event Dealer performs all of the terms, covenants and agreements contained in said Sales Contract above described for the full term thereof Dealer shall be under no obligation to pay said sum set forth in paragraph "2" hereof, or any part thereof; and Richfield agrees that in such event Dealer shall be discharged from said debt.

4. That Dealer, upon any expiration or sooner termination of said Sales Contract above described, shall immediately remove from the premises hereinbefore specified all advertising, insignia, painting and/or colors indicating the dispensing or sale from said premises of Richfield products, and in the event Dealer fails so to remove said advertising, insignia, painting and/or colors within five (5) days after such expiration or sooner termination of said Sales Contract Richfield shall have and is hereby granted the right to enter upon said premises and to repaint any buildings, pumps, tanks or other equipment thereon, to change the color or colors thereof and/or to eliminate signs and insignia therefrom and/or otherwise to remove all things which in the opinion of Richfield are indicative of the sale of Richfield products thereat; and Dealer agrees to pay to Richfield on demand the entire sum so expended by Richfield in pursuance of the rights herein granted, which said obligation of Dealer shall be in addition to that provided for in paragraph "2" hereof and shall not be discharged under the provisions of paragraph "3" hereof.

5. It is expressly understood and agreed that the Sales Contract above described dated the .....day of ....., 193..., is hereby extended to and including the .....day of ....., 193..., upon all of the terms and provisions therein contained and subject, however, to termination by Richfield at any time during such term as extended upon five (5) days' written notice to Dealer, and it is further expressly understood and agreed that all of the terms and provisions of paragraphs "1" to "4" inclusive, of this agreement shall be binding upon the parties hereto and their successors and assigns during the term of said Sales Contract above described, as extended under the provisions of this paragraph "5".

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION

By .....

.....

.....
Dealer

Government Exhibit 5B

RICHFIELD OIL CORPORATION
SALES CONTRACT

THIS AGREEMENT, executed this _____ day of _____, 19____, between RICHFIELD OIL CORPORATION, hereinafter referred to as "Seller", and _____ hereinafter referred to as "Buyer",

WITNESSETH: That

1. Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase from Seller, as ordered by Buyer during the term hereof, the following petroleum products, in yearly quantities not greater than the maximum nor less than the minimum amounts hereinbelow specified for the respective products, the same to be taken in fairly equal monthly quantities:

	Maximum	Minimum
GASOLINE	gals.	gals.
LUBRICATING OILS	gals.	gals.
GREASES	lbs.	lbs.

2. This agreement shall commence as of the _____ day of _____, 19____, and shall extend to and including the _____ day of _____, 19____; subject, however, to termination by Seller at any time during the term hereof by means of a five (5) day notice in writing to Buyer.

3. The products agreed to be sold and delivered hereunder are for resale by Buyer to the retail trade. Buyer agrees not to resell any of the products delivered hereunder which bear, or the label or container of which bears, the trade mark, brand or name of Seller or which is sold through pumps or other vending equipment bearing the trade mark, brand or name of Seller, except at the price designated by Seller as the resale price of such product. Seller shall have the right to change the designated resale price of any of the products to be delivered hereunder at any time or from time to time during the term hereof by written or oral notice directed to Buyer. Attached hereto marked "Schedule A" and hereby made a part of this contract is a schedule of the products to be delivered hereunder as of the date of the commencement of this contract. Set opposite the name of each gasoline listed in Schedule A is a price which Seller hereby designates as the resale price of such gasoline effective at the commencement of this contract and until further notice. Seller reserves the right to designate resale prices for all other products listed in said Schedule A for which prices are not designated. Seller shall have the right at any time and from time to time during the term hereof to add to the products listed on said Schedule A any other brand of gasoline, lubricating oils and greases which it may hereafter produce and manufacture and to designate a resale price therefor; and Seller shall also have the right at any time and from time to time during the term hereof to discontinue sale of any of the products listed in said Schedule A and in such event this agreement shall terminate as to such products but shall remain effective for all other purposes.

4. The prices to be paid by Buyer to Seller for the several grades of gasoline sold and delivered hereunder shall be the designated resale prices thereof at the time and place of delivery to Buyer less 4¢ per gallon in respect of Seller's Ethyl gasoline, 4¢ per gallon in respect of Seller's first grade non-premium gasoline (now known as "Hi-Octane") and 3¢ per gallon in respect of any gasoline of a grade inferior to Seller's first grade non-premium gasoline.

Prices to be paid by Buyer to Seller for products other than gasoline delivered hereunder shall be Seller's posted or list prices to service station dealers in effect at the time and place of delivery. Seller's posted or list prices to service

RICHFIELD OIL CORPORATION
SALES CONTRACT

THIS AGREEMENT, executed this _____ day of _____, 19____, between RICHFIELD OIL CORPORATION, hereinafter referred to as "Seller", and _____ hereinafter referred to as "Buyer",

WITNESSETH: That

1. Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase from Seller, as ordered by Buyer during the term hereof, the following petroleum products, in yearly quantities not greater than the maximum nor less than the minimum amounts hereinbelow specified for the respective products, the same to be taken in fairly equal monthly quantities:

	Maximum	Minimum
GASOLINE	gals.	gals.
LUBRICATING OILS	gals.	gals.
GREASES	lbs.	lbs.

2. This agreement shall commence as of the _____ day of _____, 19____, and shall extend to and including the _____ day _____, 19____; subject, however, to termination by Seller at any time during the term hereof by means of a five (5) day notice in writing to Buyer.

3. The products agreed to be sold and delivered hereunder are for resale by Buyer to the retail trade. Buyer agrees not to resell any of the products delivered hereunder which bear, or the label or container of which bears, the trade mark, brand or name of Seller or which is sold through pumps or other vending equipment bearing the trade mark, brand or name of Seller, except at the price designated by Seller as the resale price of such product. Seller shall have the right to change the designated resale price of any of the products to be delivered hereunder at any time or from time to time during the term hereof by written or oral notice directed to Buyer. Attached hereto marked "Schedule A" and hereby made a part of this contract is a schedule of the products to be delivered hereunder as of the date of the commencement of this contract. Set opposite the name of each gasoline listed in Schedule A is a price which Seller hereby designates as the resale price of such gasoline effective at the commencement of this contract and until further notice. Seller reserves the right to designate resale prices for all other products listed in said Schedule A for which prices are not designated. Seller shall have the right at any time and from time to time during the term hereof to add to the products listed on said Schedule A any other brand of gasoline, lubricating oils and greases which it may hereafter produce and manufacture and to designate a resale price therefor; and Seller shall also have the right at any time and from time to time during the term hereof to discontinue sale of any of the products listed in said Schedule A and in such event this agreement shall terminate as to such products but shall remain effective for all other purposes.

4. The prices to be paid by Buyer to Seller for the several grades of gasoline sold and delivered hereunder shall be the designated resale prices thereof at the time and place of delivery to Buyer less 4¢ per gallon in respect of Seller's Ethyl gasoline, 4¢ per gallon in respect of Seller's first grade non-premium gasoline (now known as "Hi-Octane") and 3¢ per gallon in respect of any gasoline of a grade inferior to Seller's first grade non-premium gasoline.

Prices to be paid by Buyer to Seller for products other than gasoline delivered hereunder shall be Seller's posted or list prices to service station dealers in effect at the time and place of delivery. Seller's posted or list prices to service station dealers in respect to such products are set forth in Schedule A hereof. The posted price of any such product shall be subject to change by Seller at any time and from time during the term hereof.

5. Deliveries hereunder shall be made to Buyer's service station at _____ in the City of _____ State of _____. All gasoline sold hereunder shall be delivered by tank truck, tank truck and trailer, or such other method of delivery as Seller shall select, and Buyer agrees to maintain storage, which shall conform with all laws and governmental regulations, into which said gasoline may be delivered.

6. In addition to the prices herein provided, Buyer shall pay Seller any and all taxes, increase in taxes or new taxes not included in the prices herein specified, on the products covered by this agreement and/or (on and/or measured by the production, manufacture, transportation, sale, use and/or other handling of said products.

7. Buyer shall pay Seller cash on delivery for all products delivered hereunder unless otherwise mutually agreed upon from time to time. No allowance of credit shall prevent Seller from returning at any time, at Seller's election, to a cash on delivery basis.

8. Failure or refusal of Buyer to comply with the terms of this agreement or to promptly make payment when due on all products delivered hereunder shall entitle Seller to suspend deliveries until any breach is remedied or payment is made, or to forthwith terminate this agreement.

9. In the event that performance on the part of Seller of any or all of the terms of this agreement is prevented or impeded in whole or in part, or in the event that the cost of such performance by Seller is abnormally increased by reason of acts of God, acts of public administrators, war, governmental regulations or restrictions, strikes, labor disturbances, perils of the sea, riots, fires, floods, earthquakes, embargoes, inability to obtain supplies or labor, loss or shortage of producing, manufacturing or transportation facilities and/or any other cause or causes beyond Seller's control, performance by Seller hereunder shall be excused without any liability whatever on its part.

10. If Buyer purchases Ethyl or Ethyl-treated gasoline hereunder, he shall sell said gasoline in accordance with the rules and regulations prescribed by the Surgeon General of the United States and other health officers, and shall procure the licenses required by the Ethyl Gasoline Corporation. Unless Buyer complies with the terms and provisions of this paragraph, Seller shall not be obligated to sell or deliver Ethyl or Ethyl-treated gasoline hereunder.

11. Neither this agreement nor any of the rights, powers or privileges of Buyer hereunder shall be assignable by Buyer without the written consent of Seller.

12. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Buyer at the address specified in paragraph 5 hereof, or to Seller at 555 South Flower Street, Los Angeles, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Buyer.

13. Buyer hereby acknowledges execution hereof without reliance upon any representations, warranties, promises or assurances other than those written herein.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION,

By _____
Seller

_____
Buyer

Government Exhibit 5-C

RICHFIELD OIL CORPORATION

PAINTING AGREEMENT

THIS AGREEMENT, made this ___ day of ___, 19__, between RICHFIELD OIL CORPORATION, herein called "Richfield", and ___ herein called "Dealer".

WITNESSETH:

That WHEREAS Richfield as Seller and Dealer as Buyer have entered into a Sales Contract dated the ___ day of ___, 19__, for the term commencing on the ___ day of ___, 19__, and extending to and including the ___ day of ___, 19__, under the terms of which Dealer as Buyer thereunder agreed to purchase and receive Richfield gasolines, lubricants and greases for resale at Dealer's service station located at ___; and

WHEREAS Dealer desires to have the service station buildings at said location painted in Richfield colors and insignia and Richfield is willing, on certain conditions hereinafter set forth, to furnish the necessary work, labor and material and to paint the aforesaid service station buildings;

NOW, THEREFORE, in consideration of the premises and of the covenants of the parties hereto, it is agreed:

1. That Dealer shall remove from the surface of the service station which is to be painted all signs and insignia, and upon completion of the painting of said service station by Richfield shall not place upon or over the painted surfaces any advertising sign, trade mark, insignia or any other matter without first procuring the consent and approval of Richfield.

2. That Richfield shall paint the aforesaid service station buildings at the above location and furnish the necessary work, labor and materials therefor at a maximum cost of $ ___.

3. That Dealer shall pay to Richfield, at the time of any breach of the terms of paragraph 1 of this agreement or at the time of and upon any termination by Richfield of the above mentioned Sales Contract by reason of the breach by Dealer as Buyer thereunder of any of the terms, covenants or conditions therein contained, the sum of $___ for said work, labor and materials, together with a reasonable sum as attorney's fees in the event suit is instituted by Richfield to collect said sum, or any part thereof.

4. That in the event Dealer performs all of the terms, covenants and agreements contained in said Sales Contract above described for the full term thereof, and faithfully complies with the provisions of paragraph numbered 1 hereof, Dealer shall be under no obligation to pay said sum set forth in paragraph numbered 3 hereof, or any part thereof; and Richfield agrees that in such event Dealer shall be discharged from said debt.

5. That Dealer, upon any expiration or sooner termination of said Sales Contract above described, shall immediately remove from the premises hereinabove specified all advertising, insignia, painting and/or colors indicating the dispensing or sale from said premises of Richfield products, and in the event Dealer fails so to remove said advertising, insignia, painting and/or colors within five (5) days after such expiration or sooner termination of said Sales Contract, Richfield shall have and is hereby granted the right to enter upon said premises and to repaint any buildings, pumps, tanks or other equipment thereon, to change the color or colors thereof and/or to eliminate signs and insignia therefrom and/or otherwise to remove all things which in the opinion of Richfield are indications of the sale of Richfield products thereat; and Dealer agrees to pay to Richfield on demand the entire sum so expended by Richfield in pursuance of the rights herein granted, which said obligations of Dealer shall be in addition to that provided for in paragraph "3" hereof and shall not be discharged under the provisions of paragraph "4" hereof.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION,

By ___

585

___
Dealer

Government Exhibit 5-D

Form 337 Rev.

RICHFIELD OIL CORPORATION
SALES CONTRACT

THIS AGREEMENT, executed this _____ day of _____, 19____, betw

RICHFIELD OIL CORPORATION, hereinafter referred to as "Seller", and _____

_____

hereinafter referred to as "Buyer",

WITNESSETH: That

1. Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase from Seller, as ordered by Buyer d ing the term hereof, the following petroleum products in calendar monthly quantities not greater than the maxim ner less than the minimum amounts hereinbelow specified for the respective products. For fractional monthly peri said amounts will be duly prorated.

	Minimum	Maximum
GASOLINES	_____ gals.	_____ gals.
LUBRICATING OILS	_____ gals.	_____ gals.
GREASES	_____ lbs.	_____ lbs.

The above quantities represent those to be purchased and sold under normal business conditions and in the eve because of climatic or other conditions Buyer's sales are abnormally less during certain months of the year, the afo said quantities will be proportionately reduced for said months based upon previous business experience of Buye station or of business generally in the vicinity in the event Buyer's station has had no previous business experience.

The obligation of Seller to deliver the minimum quantities above specified shall at all times be subject to Selle right to be exercised within its sole and exclusive discretion with or without notice to discontinue, restrict and/or curt the delivery of and/or to change the specifications of any product in the event of shortage of products, crude, ba materials, additives, transportation, or labor and/or for any reason similar or dissimilar to the foregoing. Failure Seller to fill any order or orders by reason of the aforesaid causes shall reduce the purchase obligations of Buyer that extent. In the event that Seller is unable to make delivery to all of its customers by reason of any of the cau set forth in this paragraph and yet is able to make some deliveries, its failure to make deliveries in whole or in part Buyer even while making deliveries of the same or similar commodities to other buyers or consignees or to its own bu storage and distributing plants, agents and distributors for sale and delivery to the general public, shall not constitu a default by Seller.

2. This agreement shall commence as of the _____ day of _____, 19____, and sh extend to and including the _____ day of _____, 19____; subject, however, to termination either party at any time during the term hereof by means of a thirty (30) day notice in writing to the other part

3. The products agreed to be sold and delivered hereunder are for resale by Buyer to the retail trade. Buy agrees not to resell any of the products delivered hereunder which bear, or the label or container of which bears, t trade mark, brand or name of Seller or which is sold through pumps or other vending equipment bearing the trade mar brand or name of Seller, except at the price designated by Seller as the resale price of such product. Seller sh have the right to change the designated resale price of any of the products to be delivered hereunder at any time or fro time to time during the term hereof by written or oral notice directed to Buyer. Attached hereto marked "Schedule A and hereby made a part of this contract is a schedule of the products to be delivered hereunder as of the date of t commencement of this contract. Set opposite the name of each gasoline listed in Schedule A is a price which Sell hereby designates as the resale price of such gasoline effective at the inception of this contract and until furth notice. Seller reserves the right to designate resale prices for all other products listed in said Schedule "A" for whic prices are not designated. Seller shall have the right at any time and from time to time during the term hereof to a to the products listed on said Schedule "A" any other brand of gasoline, lubricating oils and greases which it may hav after produce and manufacture and to designate a resale price therefor; and Seller shall also have the right at any tim and from time to time during the term hereof to discontinue sale of any of the products listed in said Schedule A an in such event this agreement shall terminate as to such products but shall remain effective for all other purposes.

4. The prices payable by Buyer to Seller under the provisions of this instrument (Form 337) for the two grad of gasoline to be sold and delivered hereunder shall be the designated resale prices thereof at the time and place d delivery to Buyer, less 4¢ per gallon.

Prices to be paid by Buyer to Seller for products other than the aforesaid two grades of gasoline delivered here under shall be Seller's posted or list prices to service station dealers in effect at the time and place of delivery. Seller posted or list prices to service station dealers in respect to such products are set forth in Schedule "A" hereof. Th posted prices of any such product shall be subject to change by Seller at any time and from time to time during th term hereof.

5. Deliveries hereunder shall be made to Buyer's service station at _____

_____

State of _____. All gasoline sold hereunder shall be delivered by tank truck, tank truck an trailer, or such other method of delivery as Seller shall select, and Buyer agrees to maintain storage, which shall conform with all laws and governmental regulations, into which said gasoline may be delivered.

6. In addition to the prices herein provided, Buyer shall pay Seller any and all taxes, increase in taxes or new tax not included in the prices herein specified, on the products covered by this agreement and/or on and/or measured b the production, manufacture, transportation, sale, use and/or other handling of said products.

7. Buyer shall pay Seller cash on delivery for all products delivered hereunder unless otherwise mutually agree upon from time to time. No allowance of credit shall prevent Seller from returning at any time, at Seller's election, t a cash on delivery basis.

8. Failure or refusal of Buyer to comply with the terms of this agreement or to promptly make payment when due on all products delivered hereunder shall entitle Seller to suspend deliveries until any breach is remedied or payment is made, or to forthwith terminate this agreement.

9. In the event that performance on the part of the Seller of any or all of the terms of this agreement is prevented or impeded in whole or in part, or in the event that the cost of such performance by Seller is abnormally increased by reason of acts of God, acts of public administration, war, governmental regulations or restrictions, strikes, labor disturbances, perils of the sea, riots, fires, floods, earthquakes, embargoes, inability to obtain supplies or labor, loss or shortage of producing, manufacturing or transportation facilities and/or any other cause or causes beyond Seller's control, or in the event, by means of statute, law, ordinance, order, mandate, decision, judgment, decree, rule or regulation of any governmental body, board, tribunal, court or official, whether specifically directed against Seller or Buyer hereunder or this contract or operations hereunder, or otherwise, performance hereunder is interfered with or regulated, or any loss or disadvantage is suffered by Seller due to an enforced or resultant reduction in prices or incurrence of liability or penalty under or in connection with any other contract because of the existence of this contract, performance by Seller hereunder shall be excused, and/or Seller shall be privileged to forthwith terminate this agreement without any liability whatever on its part.

10. If Buyer purchases Ethyl or Ethyl-treated gasoline hereunder, he shall sell said gasoline in accordance with the rules and regulations prescribed by the Surgeon General of the United States and other health officers. Unless Buyer complies with the terms and provisions of this paragraph, Seller shall not be obligated to sell or deliver Ethyl or Ethyl-treated gasoline hereunder.

11. Neither this agreement nor any of the rights, powers or privileges of Buyer hereunder shall be assignable by Buyer without the written consent of Seller.

12. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Buyer at the address specified in paragraph 5 hereof, or to Seller at 555 South Flower Street, Los Angeles 13, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Buyer.

13. Buyer hereby acknowledges execution hereof without reliance upon any representations, warranties, promises or assurances other than those written herein.

14. This agreement terminates as of the date of commencement hereof all contracts between the parties hereto or their assignors covering sale and delivery of petroleum products to Buyer's service station described in paragraph 5 hereof.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION

By_____
Seller

_____
Buyer

Government Exhibit 5-E

Form 59 10M 8-41

RICHFIELD OIL CORPORATION

PAINTING AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 19____, between RICHFIELD OIL CORPORATION, herein called "Richfield", and _____, herein called "Dealer",

WITNESSETH:

That WHEREAS Richfield as Seller and Dealer as Buyer have entered into a Sales Contract dated the _____ day of _____, 19____, for the term commencing on the _____ day of _____, 19____, and extending to and including the _____ day of _____, 19____, under the terms of which Dealer as Buyer thereunder agreed to purchase and receive Richfield gasolines, lubricating oils and greases for resale at Dealer's service station located at _____; and

WHEREAS Dealer desires to have the service station building at said location painted in Richfield colors and insignia and Richfield is willing, on certain conditions hereinafter set forth, to furnish, the necessary work, labor and material and to paint the aforesaid service station buildings;

NOW, THEREFORE, in consideration of the premises and of the covenants of the parties hereto, it is agreed:

1. That Dealer shall remove from the surface of the service station which is to be painted all signs, insignia, and obstructions, so that the obligations of Richfield hereunder may be performed with a minimum of hinderance.

2. That Richfield shall paint the aforesaid service station buildings at the above location and furnish the necessary work, labor and materials therefor at a cost of not less than $_____ nor exceeding $_____

3. That Dealer shall pay to Richfield, at the time of any breach of the terms of paragraph 1 of this agreement or at the time of and upon any termination by Richfield of the above mentioned Sales Contract by reason of the breach by Dealer as Buyer thereunder of any of the terms, covenants or conditions therein contained or at the time of and upon any termination by Dealer of the above mentioned Sales Contract by reason of the exercise by Dealer as Buyer thereunder of any termination privilege therein reserved other than for default of Seller, the actual sum expended by Richfield under paragraph 2 hereof, not exceeding, however, the maximum price therein set forth, together with a reasonable sum as attorney's fees in the event suit is instituted by Richfield to collect said sum, or any part thereof.

4. That in the event Dealer performs all of the terms, covenants and agreements contained in said Sales Contract above described for the full term thereof, and faithfully complies with the provisions of paragraph numbered 1 hereof, Dealer shall be under no obligation to pay the obligation set forth in paragraph numbered 3 hereof, or any part thereof; and Richfield agrees that in such event Dealer shall be discharged from said debt.

5. That Dealer, upon any expiration or sooner termination of said Sales Contract above described, shall immediately remove from the premises hereinabove specified all advertising, insignia, painting and/or colors indicating the dispensing or sale from said premises of Richfield products, and in the event Dealer fails so to remove said advertising, insignia, painting and/or colors within five (5) days after such expiration or sooner termination of said Sales Contract, Richfield shall have and is hereby granted the right to enter upon said premises and to repaint any buildings, pumps, tanks or other equipment thereon, to change the color or colors thereof and/or to eliminate signs and insignia therefrom and/or otherwise to remove all things which in the opinion of Richfield are indications of the sale of Richfield products thereat; and Dealer agrees to pay to Richfield on demand the entire sum so expended by Richfield in pursuance of the rights herein granted, which said obligations of Dealer shall be in addition to that provided for in paragraph "3" hereof and shall not be discharged under the provisions of paragraph "4" hereof.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION,

By _____

_____
Dealer

Government Exhibit 5F

RICHFIELD OIL CORPORATION

PAINTING AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 19____, between RICHFIELD OIL CORPORATION, herein called "Richfield", and _____, herein called "Dealer",

WITNESSETH:

That WHEREAS Richfield as Seller and Dealer as Buyer have entered into a Sales Contract dated the _____ day of _____, 19____, for the term commencing on the _____ day of _____, 19____, and extending to and including the _____ day of _____, 19____, under the terms of which Dealer as Buyer thereunder agreed to purchase and receive Richfield gasolines, lubricating oils and greases for resale at Dealer's service station located at _____; and

WHEREAS Dealer desires to have the service station building at said location painted in Richfield colors and insignia and Richfield is willing, on certain conditions hereinafter set forth, to furnish, the necessary work, labor and material and to paint the aforesaid service station buildings;

NOW, THEREFORE, in consideration of the premises and of the covenants of the parties hereto, it is agreed:

1. That Dealer shall remove from the surface of the service station which is to be painted all signs, insignia, and obstructions, so that the obligations of Richfield hereunder may be performed with a minimum of hindrance.

2. That Richfield shall paint the aforesaid service station buildings at the above location and furnish the necessary work, labor and materials therefor at a cost of not less than $_____ nor exceeding $_____

3. That Dealer shall pay to Richfield, at the time of any breach of this agreement or at the time of and upon any termination by Richfield of the above mentioned Sales Contract by reason of the breach by Dealer as Buyer thereunder of any of the terms, covenants or conditions therein contained or at the time of and upon any termination by Dealer of the above mentioned Sales Contract by reason of the exercise by Dealer as Buyer thereunder of any termination privilege therein reserved other than for default of Seller, the actual sum expended by Richfield under paragraph 2 hereof, not exceeding, however, the maximum price therein set forth, together with a reasonable sum as attorney's fees in the event suit is instituted by Richfield to collect said sum, or any part thereof.

4. That in the event Dealer performs all of the terms, covenants and agreements contained in said Sales Contract above described for the full term thereof, and faithfully complies with the provisions of paragraph numbered 1 hereof, Dealer shall be under no obligation to pay the obligation set forth in paragraph numbered 3 hereof, or any part thereof; and Richfield agrees that in such event Dealer shall be discharged from said debt.

5. That Dealer, upon any expiration or sooner termination of said Sales Contract above described, shall immediately remove from the premises hereinabove specified all advertising, insignia, painting and or colors indicating the dispensing or sale from said premises of Richfield products, and in the event Dealer fails so to remove said advertising, insignia, painting and/or colors within five (5) days after such expiration or sooner termination of said Sales Contract, Richfield shall have and is hereby granted the right to enter upon said premises and to repaint any buildings, pumps, tanks or other equipment thereon, to change the color or colors thereof and/or to eliminate signs and insignia therefrom and/or otherwise to remove all things which in the opinion of Richfield are indications of the sale of Richfield products thereat; and Dealer agrees to pay to Richfield on demand the entire sum so expended by Richfield in pursuance of the rights herein granted, which said obligations of Dealer shall be in addition to that provided for in paragraph "3" hereof and shall not be discharged under the provisions of paragraph "4" hereof.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION,

By _____

_____ Dealer

Government Exhibit 5-G

RICHFIELD OIL CORPORATION
SALES CONTRACT

THIS AGREEMENT, executed this _____ day of _____, 19____, bet

RICHFIELD OIL CORPORATION, hereinafter referred to as "Seller," and _____

_____

hereinafter referred to as "Buyer,"

WITNESSETH: That

1. Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase from Seller, as ordered by Buyer during the t hereof, the following petroleum products in calendar monthly quantities not greater than the maximum nor less than the minim amounts hereinbelow specified for the respective products. For fractional monthly periods said amounts will be duly prorated.

	Minimum	Maximum
GASOLINES	_____ gals.	_____ gals.
LUBRICATING OILS	_____ gals.	_____ gals.
GREASES	_____ lbs.	_____ lbs.

The above quantities represent those to be purchased and sold under normal business conditions and in the event, becaus climatic or other conditions, Buyer's sales are abnormally less during certain months of the year, the aforesaid quantities wil proportionately reduced for said months based upon previous business experience of Buyer's station or of business generally in vicinity in the event Buyer's station has had no previous business experience.

The obligation of Seller to deliver the minimum quantities above specified shall at all times be subject to Seller's right t exercised within its sole and exclusive discretion with or without notice to discontinue, restrict and/or curtail the delivery of an to change the specifications of any product in the event of shortage of products, crude, base materials, additives, transportatio labor and/or for any reason similar or dissimilar to the foregoing. Failure of Seller to fill any order or orders by reason of aforesaid causes shall reduce the purchase obligations of Buyer to that extent. In the event that Seller is unable to make deliver all of its customers by reason of any of the causes set forth in this paragraph and yet is able to make some deliveries, its failu make deliveries in whole or in part to Buyer even while making deliveries of the same or similar commodities to other buyer consignees or to its own bulk storage and distributing plants, agents and distributors for sale and delivery to the general public, not constitute a default by Seller.

2. This agreement shall commence as of the _____ day of _____, 19____, and extend to and including the _____ day of _____, 19____; subject, however, to terminatio either party at any time during the term hereof by means of a thirty (30) day notice in writing to the other party.

3. The products agreed to be sold and delivered hereunder are for resale by Buyer to the retail trade. Buyer agrees n resell any of the products delivered hereunder which bear, or the label or container of which bears, the trade mark, brand or of Seller or which is sold through pumps or other vending equipment bearing the trade mark, brand or name of Seller, at prices than those designated by Seller as the resale prices of such products. Seller shall have the right to change the designated resale p of any of the products to be delivered hereunder at any time or from time to time during the term hereof by written or oral directed to Buyer. Attached hereto marked Schedule "A" and hereby made a part of this contract is a schedule of the produc be delivered hereunder as of the date of the commencement of this contract. Set opposite the name of each gasoline listed in Sch "A" is a price which Seller hereby designates as the resale price of such gasoline effective at the execution of this contract and further notice. Seller reserves the right to designate resale prices for all other products listed in said Schedule "A" for which are not designated. Seller shall have the right at any time and from time to time during the term hereof to add to the pro listed on said Schedule "A" any other brand of gasoline, lubricating oils and greases which it may hereafter produce and manufa and to designate a resale price therefor; and Seller shall also have the right at any time and from time to time during the hereof to discontinue sale of any of the products listed in said Schedule "A" and in such event this agreement shall terminate such products but shall remain effective for all other purposes.

4. The prices payable by Buyer to Seller under the provisions of this instrument (Form 337) for the two grades of ga to be sold and delivered hereunder shall be the designated resale prices thereof at the time and place of delivery to Buyer 4¢ per gallon.

Prices to be paid by Buyer to Seller for products other than the aforesaid two grades of gasoline delivered hereunder sh Seller's posted or list prices to service station dealers in effect at the time and place of delivery. Seller's posted or list pric service station dealers in respect to such products are set forth in Schedule "A" hereof. The posted price of any such product be subject to change by Seller at any time and from time to time during the term hereof.

5. Deliveries hereunder shall be made to Buyer's service station at _____

_____

State of _____. All gasoline sold hereunder shall be delivered by tank truck, tank truck and or such other method of delivery as Seller shall select, and Buyer agrees to maintain storage, which shall conform with all la governmental regulations, into which said gasoline may be delivered.

6. In addition to the prices herein provided, Buyer shall pay Seller any and all taxes, increase in taxes or new taxes cluded in the prices herein specified, on the products covered by this agreement and/or on and/or measured by the production, facture, transportation, sale, use and/or other handling of said products.

7. Buyer shall pay Seller cash on delivery for all products delivered hereunder unless otherwise mutually agreed upon fro to time. No allowance of credit shall prevent Seller from returning at any time, at Seller's election, to a cash on delivery ba

8. Failure or refusal of Buyer to comply with the terms of this agreement or to promptly make payment when due on all p delivered hereunder shall entitle Seller to suspend deliveries until any breach is remedied or payment is made, or to forthwith nate this agreement.

5

9. In the event that performance on the part of the Seller of any or all of the terms of this agreement is prevented or impeded in whole or in part, or in the event that the cost of such performance by Seller is abnormally increased by reason of acts of God, acts of public administrators, war, governmental regulations or restrictions, strikes, labor disturbances, perils of the sea, riots, fires, floods, earthquakes, embargoes, inability to obtain supplies or labor, loss or shortage of producing, manufacturing or transportation facilities and/or any other cause or causes beyond Seller's control, or in the event, by means of statute, law, ordinance, order, mandate, decision, judgment, decree, rule or regulation of any governmental body, board, tribunal, court or official, whether specifically directed against Seller or Buyer hereunder or this contract or operations hereunder, or otherwise, performance hereunder is interfered with or regulated, or any loss or disadvantage is suffered by Seller due to an enforced or resultant reduction in prices or incurrence of liability or penalty under or in connection with any other contract because of the existence of this contract, performance by Seller hereunder shall be excused, and/or Seller shall be privileged to forthwith terminate this agreement without any liability whatever on its part.

10. If Buyer purchases Ethyl or Ethyl-treated gasoline hereunder, he shall sell said gasoline in accordance with the rules and regulations prescribed by the Surgeon General of the United States and other health officers. Unless Buyer complies with the terms and provisions of this paragraph, Seller shall not be obligated to sell or deliver Ethyl or Ethyl-treated gasoline hereunder.

11. Neither this agreement nor any of the rights, powers or privileges of Buyer hereunder shall be assignable by Buyer without the written consent of Seller.

12. Any demands or notices required or permitted to be served hereunder shall be deemed properly served when deposited, postage prepaid, registered, in the United States mail, addressed to Buyer at the address specified in paragraph 5 hereof, or to Seller at 555 South Flower Street, Los Angeles 17, California. In lieu of mailing, as aforesaid, such demands and notices may be personally served upon Buyer.

13. Buyer hereby acknowledges execution hereof without reliance upon any representations, warranties, promises or assurances other than those written herein.

14. This agreement terminates as of the date of commencement hereof all contracts between the parties hereto or their assignors covering sale and delivery of petroleum products to Buyer's service station described in paragraph 5 hereof.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION

By_____
Seller

_____
Buyer

Government Exhibit 5-H

Rev. 12-15-50

SCHEDULE "A"
(For attachment to Sales Contract, Form 337, 398, & 783)

The following schedule of prices is that prevailing on _____ 195__ Richfield's designated resale prices as of the date of this Schedule "A" at the point of delivery specified in paragraph 4 or 5 of the foregoing Sales Contract, are as follows:

Richfield Ethyl Gasoline _____¢ per gallon
Richfield Hi-Octane Gasoline _____¢ per gallon

Richfield does not direct resale prices on lubricating oils and greases. Richfield's posted prices, exclusive of all taxes, to service station dealers on lubricating oils and greases as of the date of this Schedule "A" f.o.b. Los Angeles, Calif., are those set forth in the table below. To arrive at prices f.o.b. _____ add Richfield's established differentials between said point and Los Angeles, Calif. prevailing at time of delivery. As of date hereof said differentials are _____¢ per gallon on lubricating oils and _____¢ per pound on grease.

		DELIVERED PRICE PER GALLON			
AUTOMOTIVE OILS	Tax Class	Bulk	Case 24 1/Qt Cans	Case 1 5 Gal. Litho	1 Gal. Can
RICHFIELD PENNSYLVANIA "PREMIUM" MOTOR OIL SAE 10-W-60 INCL.	(T)	.815	1.00	-	-
RICHLUBE "PREMIUM" MOTOR OIL SAE 10-W-60 INCL.	(T)	.675	.86	-	-
RICHLUBE HEAVY DUTY MOTOR OIL SAE 10-W-40 INCL.	(T)	-	.89	-	-
RICHFIELD AUTOMATIC TRANSMISSION FLUID	(T)	-	1.37	-	-
WESLUBE MOTOR OIL SAE 10-60 INCL.	(T)	.34	-	-	-
RICHFIELD CYL-LUBE	(T)	-	-	.825	-
KLENZLUBE FLUSHING OIL	(T)	.28	-	.42	-
RICHFIELD PENETRATING OIL	(T)	.685	-	.825	.935

1. Minimum deliveries of automotive oil - 5 gallons.
2. Richfield Pennsylvania "Premium" and Richlube "Premium" and Heavy Duty Motor Oils in cans must be sold in full case lots.

		DELIVERED PRICE PER POUND						
		Bbls. Full 400# L.I.B.'S	Non-Returnable Litho. Packages 400# Grease	115# Litho Grease	35#	37# Litho	Case 6/10#	Cas 24/7
GREASES	Tax Class	Only	Drum	Drum	Pail	Cans	Cans	Can
RICHFIELD GEAR OIL SAE 80	(T)	-	-	-	-	.14	-	-
RICHFIELD GEAR OIL SAE 90, 140, 250	(T)	.125	-	.135	-	.14	-	-
RICHFIELD PENNSYLVANIA TRANS-GEAR OIL SAE 90, 140	(T)	.12	-	.13	-	.135	-	-
RICHFIELD CHASSIS LUBRICANT #0, #1	(NT)	-	.1275	.1375	.1425	-	.1575	-
RICHFIELD CHASSIS LUBRICANT #3	(NT)	-	.13	.14	.145	-	.16	-
RICHFIELD ROCOLUBE GREASE #, 2, 3	(NT)	-	.1775	.1875	.1925	-	.2075	-

(T) - Product is subject to Federal Lubricating Oil Tax.
(NT)- No Federal Tax

Government Exhibit 5-I

AGREEMENT OF AMENDMENT

It is agreed that effective as of the date of execution hereof that certain Sales Contract, Form 337, dated _____, executed by and between the parties hereto (or their predecessors in interest) covering the purchase and sale of certain specified petroleum products, to be delivered to Buyer's service station at _____, during the term commencing _____ and ending _____, is hereby amended as follows:

A. The first paragraph of paragraph numbered "1" thereof is hereby deleted and the following paragraph substituted therefor:

"1. Seller agrees to sell and deliver to Buyer and Buyer agrees to purchase from Seller, as ordered by Buyer during the term hereof, the following petroleum products in calendar monthly quantities not greater than the maximum nor less than the minimum amounts hereinbelow specified for the respective products. For fractional monthly periods said amounts will be duly prorated.

	Minimum		Maximum	
GASOLINES	_____	gals.	_____	gals.
LUBRICATING OILS	_____	gals.	_____	gals.
GREASES	_____	lbs.	_____	lbs.

* The above quantities represent those to be purchased and sold under normal business conditions and in the event, because of climatic or other conditions Buyer's sales are abnormally less during certain months of the year, the aforesaid quantities will be proportionately reduced for said months based upon previous business experience of Buyer's station or of business generally in the vicinity in the event Buyer's station has had no previous business experience."

and

B. The language --

"subject, however, to termination by Seller at any time during the term hereof by means of a five day notice in writing to Buyer."

appearing in paragraph numbered "2" thereof is hereby deleted and the following language substituted therefor:

"subject, however to termination by either party hereto at any time during the term hereof by means of a thirty day notice in writing to the other party."

EXECUTED this _____ day of _____, 19__.

SCHEFIELD OIL CORPORATION

By _____

Seller

_____

Buyer

RICHFIELD T. B. A. DISTRIBUTOR'S MONTHLY REPORT

Form 1079 500 Rks. 2-45

DISTRIBUTOR'S NAME_____ LOCATION_____ MONTH OF_____

STATION NO.	NAME	ADDRESS	INVOICE NO.	TIRES UNITS	TUBES UNITS	RECAPS UNITS	BATTERY UNITS	SPARK PLUGS	ACCESSORIES DOLLARS	
			TOTALS							

TIRE UNITS			BATTERY UNITS			SPARK PLUG UNITS			ACCESSORY DOLLARS		
POTENTIAL	SALES	%	POTENTIAL	SALES	%	POTENTIAL	SALES	%	POTENTIAL	SALES	%

619

280

Government Exhibit 7

[fol. 620] GOVERNMENT'S EXHIBIT 8

Los Angeles, February 19th, 7.

Mr. G. R. Miller.

I am returning herewith next statements prepared by you at my request covering Division comparisons and Assistant Manager territorial comparisons, by agencies, on our TBA sales position for 1946.

It is evident that some Assistant Managers are doing a fairly good job; others are doing no job at all and tha fact is indisputable that at least 50% of our bulk plants—either salaried or commissioned—are capable of doubling the TBA sales produced in 1946 without any nervous strain, increased blood pressure, or much extra effort, because the outlets are available, the merchandise will be more plentiful, the demand has never been greater, and all we have to do is to bestir ourselves and supply it.

Our TBA activity in 1946 yielded a profit to Richfield of $471,000, an increase of 43.5% over the profit for 1945. This means that every month that went over our heads each controlled L. O. unit produced an average *Per Unit, Per Month*, of better than $35.00 which, reduced to terms of resale gallons, means 1/3 cent per controlled resale gallon added profit to the corporation through our TBA activity.

Here we are embarking on a program involving many millions of dollars for the purchase and development of new resale outlets, all of which will be engaged in TBA activities and greater merchandising activity than ever before in the history of the industry. I do not know when we can begin building new units but I do know we have an enormous potential field already in existence by arousing new and added interest through the outlets we already have. Some territories seem to be getting along pretty well because the warehouses are stocked with TBA merchandise and the commission agents are enthused on the earnings possibilities of the TBA activity. And in several cases I have talked with the commission agents who have told me the TBA net income is as great as their earned commission on the sale of petroleum products. The fact is

indusputable that when we earn a dollar the commission agent earns two dollars or more and the dealer earns three to four dollars, so there is general benefit straight down the line and greater income to all of us if greater activity in TBA can be developed.

Some of the worst points indicated on the attached statements are some of the points where we control the majority of gasoline business and there must be some reason why certain agents will take up the TBA program [fol. 621] and go to town with it and others treat it with complete indifference and make no progress whatsoever.

This is what I would like to have done, on a predetermined schedule to be handled by Mr. Tanner with the forces in the Division: I would like Mr. Tanner to proceed to the Southern Division and develop through Mr. Burgner (leaving Mr. Burgner entirely out of the actual visit to the dealer), Mr. Tanner to be accompanied by the Zone Merchandiser on a trip to at least four or five low production points in each Assistant Manager's territory and then, based on whatever facts Mr. Tanner develops each week, furnish a report to me (with copy to the Division Manager, the Assistant Manager in charge of merchandising in the Division) revealing exactly what is wrong with our TBA activity at each individual point. If it is a commission agent who takes no interest in TBA, then we need a new commission agent. If it is a dealer who refuses to interest himself in this profitable endeavor, then it's a new dealer. If it is a Zone Merchandiser who is a traveling territorial tourist and whose general record is bad, then it's a new Zone Merchandiser. If it is an assistant Manager in charge of merchandising who never visits his territory with his men, then we will do something about that.

But what I am anxious to develop is——

What is wrong with the setup at the points where we accomplish nothing with our TBA activity?

When Mr. Tanner has completed one Assistant Manager's territory, he can then take up another and so on, completing one entire Division and then proceeding to another Division, finally covering our entire territory, getting a cross

section of five or six agencies in each Assistant Manager's territory.

The purpose of this showdown is to develop the reasons why——

Some territories lag in TBA performance and others do not,

Some commission agents are steamed up and highly interested in TBA and others are not,

Some operating Assistant Managers are behind the issue and others are not,

On my trips in the Divisions I hear of the Assistant Manager in charge of merchandising in the territory and in another territory we would never know we had an Assistant Manager in charge of merchandising,

One man gets out and the other man stays home,

Whether we lack manpower to do the job or whether we have a duplication of effort, stumbling all over themselves.

[fol. 622] The proposition is inescapable that in the early future tires, tubes, batteries, and all forms of accessories will be available in great plenty. We will not face a "seller's market" but will build 400 or 500 new service stations all of which will handle these commodities, and unless we clean out the organization that is not TBA minded and get the organization to handling and talking TBA products we will never do a successful job in the "buyer's market" which is ahead of us.

Before Mr. Tanner starts in the Divisions I would like to discuss this program with you and Mr. Tanner verbally.

W. T. Dinkins.

WTD/r
Encls

cc: Mr. A. C. Carr
Mr. H. T. Hutchinson
Mr. E. Kirby
Mr. W. G. King, Jr.
Mr. G. B. Tanner

[fol. 623] GOVERNMENT'S EXHIBIT 9

General Office

June 16, 8.

E. Kirby
C. B. Bradford
W. G. King, Jr.

Subject: Split Pump Accounts and Split Pump Price Postings

Effective at once, please arrange to discontinue all split pump resale accounts in your entire Divisions, and at the same time, please withdraw all split pump price postings.

It will be 100% Richfield or we will withdraw from such accounts, if we have any left, that are now on a split pump basis.

Will you please immediately acknowledge this, and as soon as you have made a convas of your situation and have conformed to the new policy, advise me again, assuring me that we are on a 100% basis?

W. T. Dinkins.

AGM:AR

cc: W. T. Autrey (J. N. B.)
E. C. Winder

[fol. 624] GOVERNMENT'S EXHIBIT 9-A

Seattle Branch, October 2, 1940

Mr. S. L. Nicholson

Subject: Kenneth Kohl, 1203 South Alaskan Way

Our sales contract with subject account expires on February 6, 1941. When we were in the account on a split pump basis, he averaged 13,500 gallons per month. Since we took the account over on a 100% basis on February 7th, we have averaged well above 40,000 gallons per month. In August the gallonage was 47,726. When we were in the account on a split pump basis our motor oil volume averaged 7 gallons per month. Since we have been in on a 100%

basis we have averaged over 55 gallons per month, all of which is still only a drop in the bucket compared to the account's total motor oil volume.

As you know, Mr. Kohl is very much interested in having certain modernization work done. His chief interest is in removing the large concrete block which lies between two of his super buildings behind the service station, and finishing that portion of the premises off into another lubrication unit. If we are not willing to handle this particular part of the modernization program immediately Kohl wants us to let him know as he plans to do the work himself.

There are other alterations which are very much needed, i.e., the yard should be hard-surfaced, the extended canopy, or front section of the canopy, should be remodelled to tie in more closely with the architectural lines of the service station building. A toilet and rest room should be installed.

I have made quite a thorough investigation of the cost which will be involved in handling all of this work and I am itemizing it below:

Removal of the concrete block	$ 160.00
Installation of back wall, roof and doors for new lubrication room	400.00
Hoist	215.00
Hoist installation, plumbing fixtures, plumbing for rest room	275.00
Lubrication display panelling and cabinet	165.00
#3 Lubrication Unit	143.78
Paving (Black Top)	300.00
[fol. 625] Paving (Concrete)	250.00
Installation of Front Marquee	170.00
Total	$2,078.78

In consideration for our doing the above work, Mr. Kohl is willing to sign a five year sales contract and, in addition, he is willing to handle our products exclusively in the new lubrication room and he is willing to eliminate all com-

petitive canned oils from the station entirely with the exception of Pennzoil.

Mr. Kohl owns all the buildings and equipment at this location and he leases the ground from A. M. Castle & Company for a rental of $100 per month. His lease is subject to cancellation on December 31st of any year. Kohl is willing to assume the risk of cancellation of the basic lease by guaranteeing to reimburse us on a 3 year pro-rata basis in the event of such cancellation.

This is by far our best account in the city of Seattle and it is not only desirable from the standpoint of volume but also from the standpoint of cost of deliveries since Mr. Kohl is very cooperative in letting us handle all deliveries at our convenience and in taking truck retains, etc. We have never been able to meet competitive prices on bulk oils or else we would have been selling much more oil to this account. However if we make the expenditure which is proposed above it will not only mean the assurance of substantial gasoline volume but will also mean that we will have a very good motor oil and grease account. As I have indicated above, Kohl is going ahead on his own hook with the removal of the concrete block and the installation of the lubrication unit if we do not give him our decision immediately. If he does this work it means that we will not get any more oil and grease volume than we are now getting and our subsequent negotiations for renewal will be made more difficult because of my statement to Kohl a number of months ago that we wanted to make some improvements for him.

F. B. Wilson—Branch Manager.

FBW:h

[fol. 626] GOVERNMENT'S EXHIBIT 10

Richfield Oil Corporation

Marketing Department—Southern Division

155 West Washington Blvd.

Los Angeles, May 7, 1941.

To All Branch Managers, Salaried Agents, Commission Agents, Territory Salesmen and Merchandisers, Southern Division

Subject: Form 542, Revised 3-41 (24 Hour Cancellation Privilege) Rewriting Existing Deals

Service Station Lease, Form 542, was recently revised to provide for a 24-hour termination privilege at any time rather than the former 6-month termination privilege. The Schedule "A" form, for use in connection with Form 542, has also been completely revised to simplify and expedite the preparation of this latter form.

"Form 542 Instructions"

In a number of instances the new 24-hour Form 542, Sublease, has already been negotiated. *However, it is now the desire of the management that wherever possible existing 6-month Form 542 agreements be replaced with the new 24-hour forms. At the same time the new Schedule "A" forms are likewise to be used.* To accomplish this changeover, each of you should start trying to sign up the sublessees at L. O. stations on the new 542 forms and new Schedule "A" forms approximately 60 days prior to the nearest optional termination date. (For example, if an existing old type Form 542 is terminable as of any January 15th or any July 15th you will begin your efforts to sign up the sublessee on the new 24-hour form not later than May 15th.)

Important

If you are not successful in securing the signature of any sublessee on the new form by at least 45 days prior to the nearest optional termination date, you should *imme-*

diately so notify this office in order that we may supply you with a Notice of Termination to be served on the sublessee not less than 30 days prior to the nearest optional termination date.

As the optional termination dates vary from station to station, this changeover will take approximately six months. This office is preparing and will have in the hands of the respective Agencies and Branches as quickly as possible a [fol. 627] complete list of the various L. O. stations still operating on the 6-months cancellation basis type of Form 542 and as soon as received, each of you should immediately proceed in accordance with the foregoing. Likewise it is important that you maintain a very close follow-up system to make certain that none of the nearest optional termination dates pass by without the changeover taking place.

Consideration will be given to not making the changeover in those few instances where the changeover might violate the spirit of some old understanding and possibly result in the loss of a good sublessee or in the loss of business. If any cases develop which would fit in this category you should so advise this office immediately through the medium of an individual letter setting forth the reasons why the changeover should not be made to the new revised Form 542.

One more point to be brought out, however, is the fact that the new Form 542 is to be submitted in *triplicate* and each of the Schedule "A" forms in *quadruplicate*.

"Instructions On"

"Form 542-A, 542-B, 542-C, and 542-D"

The new Schedule "A" forms, (which are in addition to Form 542-A) have been assigned Form Nos. 542-B, 542-C and 542-D, and when used will constitute a portion of or the entire Schedule "A". A specimen set of new Schedule "A" forms, covering a theoretical situation, has been prepared and is attached for your information and guidance. These forms are more or less self-explanatory, and a study of the specimens will furnish a comprehensive picture concerning the use and purposes thereof, and the

manner in which they are to be prepared. For further clarification, however, we are setting forth the following additional remarks:

(a) When preparing these forms it is well to keep in mind that, legally, the contents of the Schedule "A" are as much a part of the Service Station Lease itself as is any clause printed therein. In this respect, it is important that these forms be prepared without deletions or alterations and that, if such irregularities occur, it will be required that they be initialed by both parties to the Lease. To avoid these irregularities you will note that we have provided a footnote to the forms which obviates the necessity of deleting by ruling out, any printed equipment description not used or, requiring that the word "None" be inserted in the "Quantity" column. Also, for the same purpose, we have provided blank lines for the reflecting of equipment descriptions which are not printed on the forms and have placed these blank lines in positions permitting inserted additions without distorting the order arrangement planned. As many additions may be made to the forms as [fol. 628] desired as this practice does not constitute an irregularity and does not affect the legality of the document.

(b) No change has been made in respect to the showing of the legal description of the property involved but you will note that we have provided for the recording of the street, town and state address of the unit. This information will be of considerable value as the location identification is required on numerous records maintained in Division Offices. In respect to this feature it is intended that street and number be used in all instances where possible, using only such addresses as, 8th and Broadway, S. E. Corner Main and "N" Streets, Highway 101 and Magnolia, where no street numbers exist.

(c) One line may be used for two or more articles of equipment only in cases where the articles carry

an identical description as to "Make and Model" and "Type or Size" and where ownership is the same for all. In all other instances separate lines will be required. In preparing the attached specimen we have endeavored to stress this particular feature.

(d) In those cases where a suitable printed description cannot be found on the form, or if there is any doubt as to the propriety of using any of the printed captions, it is preferable that a blank line be used for entering the description of the item in question or that, if the items in question are numerous, a blank schedule form (542-A) be used. In cases such as these every effort should be made to add the items to the proper section of the form and this may be accomplished by determining the section which contains items of the same nature as the item in question. In this respect, we wish to point out that, with the exception of water coolers and floor safes, no other type of equipment than that printed may be inserted in the section headed "Retailing Equipment".

(e) On our specimen for Form 542-A it would not be practical to indicate all items which are to be included thereon, however, this form will be provided for future use in conjunction with the new forms to fulfill the requirements of service station deals, not frequently encountered, which involve cafes, barbecue stands and other facilities completely foreign to service station operations; also, for equipment units consisting of a number of component parts requiring listing but not provided for by printed captions on Form 542-C or 542-D.

(f) *The signature of the Lessee should be placed on the last page of the Schedule "A" immediately following the last item listed. The dates to be shown will be the effective date of the Service Station Lease and the date the Schedule "A" is signed. See page four of attached specimen regarding this particular feature.*

[fol. 629] (g) It will be noted that page numbers have not been printed on any of the four forms. This is attributable to the fact that it cannot be definitely determined which or how many of the forms will be involved in the preparation of a complete Schedule "A". For example, it is anticipated that the usual service station deal will involve the use of Form 542-B, C and D. If such is the case, these forms will complete Schedule "A" in the order mentioned and the sheets will be typed "Page one of three", "Page two of three" and "Page three of three". In the event only sheets 542-B and D are required, they will be typed "Page one of two", and "Page two of two". Where all four forms are involved the pages will be typed "Page one of four", "Page two of four", "Page three of four" and "Page four of four", for Forms 542-B, C, D and A, respectively.

(h) *Forms 542, Service Station Lease*, will be typed to provide *original and two copies* and its *Schedule "A" will be prepared in original and three copies.*

The foregoing instructions, augmented by the attached specimen schedule, cover the preparation of Schedule "A" to the Service Station Lease. Once this feature has been satisfactorily accomplished it is important that records be properly maintained which will permit undisputed settlements with outgoing operators, the accurate rewriting of new leases and schedules and the consummation of quit claims or renewals which may be involved in the case of locations being leased from others. In respect to this matter, all additions and removals of equipment at service stations must be properly and promptly reported.

In the case of additions represented by shipments direct from the vendor to point of installation, it will be required that the receiving record copy of the Purchase Order be signed by the Branch Manager or Commission Agent. Other types of additions and all removals are effected either by the Branch Manager or Commission Agent or the C. & M. Department. In either case, such changes will be reported

through the use of Form 90, Equipment and Materials Transfer and Receipt, and the original thereof, together with the pink (receipt) copy, except in cases where the latter is tendered, the Lessee for receipt covering removal, will be dispatched to the Division Accounting Department. In the case of changes made by the C. & M. Department, the duplicate (tissue) copy of the form will be forwarded to the Branch Manager or Commission Agent of the territory in which the service station is situated.

It will be noted that the procedure as outlined in the preceding paragraph provides for notification in one form or another to the Branch Manager or Commission Agent of all changes made in facilities at service stations under his jurisdiction. This provision is made for the purpose of having a Form 836, Change of Equipment (amendment to service station lease and schedule), properly prepared and executed. This form will be prepared and distributed in the manner prescribed for Schedule "A" to the Service Station Lease.

[fol. 630] Important

Where we approve the continuance of a service station lease, Form 542, on the 6-months termination basis, it still is desired that you convert the Schedule of any such 542 to the new Schedule "A" forms. In the few instances of this particular nature, *and only in such instances*, the following phraseology should appear at the conclusion of the last page of the new Schedule:

> "This Schedule "A" is to be attached to and made a part of that certain Service Station Lease, Form 542, made and entered into this ..... day of ....., 19..... by and between Richfield Oil Corporation, as Lessor and ....., as Lessee, with the express intent and purpose that as of the ..... day of ....., 19..... it will replace, supersede and supplant the Schedule "A" which has heretofore been attached to and made a part of said Service Station Lease, Form 542, and to the same effect as if this Schedule "A" had been the original Schedule "A"

attached to and made a part of said Service Station Lease, Form 542."

Below such phraseology should be provided a space for the signature of the Sublessee, a space for the date of execution of the schedule, and a space for execution by Richfield as follows:

"Richfield Oil Corporation, By —— ——"

As indicated, this phraseology is to appear only on new Schedule "A" forms which are not executed concurrently with a new Service Station Lease, Form 542.

This is to remind you the rewriting of all these documents will present an unusually heavy volume of routine handling in the Division Office until this entire task is completed, therefore, you are urged to do your part of this job properly by submitting all papers prepared correctly signed and initialed where necessary. Careful handling in the field will preclude documents being returned for correction and obviate delayed papers, a problem which must be eliminated entirely.

W. G. King, Jr.

Serial Letter No. 81.

[fol. 631] Instructions Concerning Designation of Company-Owned and Lessor-Owned Equipment on Forms 542-A, B, C and D

It is possible in some instances that our Branches and Agencies will not be in a position to know definitely whether service station equipment is company-owned or lessor-owned and therefore be unable to properly insert the required symbols to indicate ownership on the new subject forms.

Where this conditions prevails, and where it involves the initial preparation of these new forms, our field offices are hereby instructed to omit the symbols referred to, submitting these documents to the Division Office by leaving the column provided for ownership designation blank. This information will then be inserted on all copies when re-

ceived by our Accounting Department, and with the return of the quadruplicate copy to the bulk plant or agency office, this information will then be on record in their office and they will be in a position to furnish the symbol on all subsequent schedules.

Since this feature does not affect or concern our Lessee, the omission thereof on his copy will in no way impair the legality of the document.

W. G. King, Jr.

[fol. 632]

Schedule A

Note: The absence of any specific quantity inserted against any item of equipment in this column shall be indicative of "None".
* In this column letter "C" indicates Company-Owned, "L" indicates Lessor-Owned.

Description of Real Property

Street and Number: 201 W. Washington Blvd.
Town: Los Angeles.
State: California.
Legal Description: S.S. No. 1261.

The real property used for service station purposes upon which the buildings, fixtures, equipment and facilities hereinafter described in this Schedule "A" are situated, which real property is located at the northwest corner of the intersection of Washington Blvd. and Hill Street, and is more particularly described in the lease referred to in paragraph "11" of this lease.

Buildings and Improvements

Quantity (See Note)	*	Description	Make and Model	Type or Size	Serial No.	Company Equip. No.
1	L	Service Station	Steel	B-3 Spec.		
2	L	Canopies	Steel			
2	L	Restrooms	Steel—Built In			
1	L	Lubrication & Washrack Room	Wood & Corr. Iron			
1	L	Tire and Battery Shop	Stucco			
3	L	Electroliers	Metal	24'		
3	L	Floodlights (Incl. Lamps)	Benjamin			
198 (ft.)	L	Fencing	Wood	H		
1	L	Canopies (Isolated)				
1	L	Waste Oil Tank		120 Gal.		
1	L	Air, water and gasoline piping systems and electric system.				

Retailing Equipment

Quantity (See Note)	*	Description	Make and Model	Type or Size	Serial No.	Company Equip. No.
2	L	550 Gal. U. G. Tanks				
1	C	550 Gal. U. G. Tanks				12032
		550 Gal. U. G. Tanks				
1	L	600 to 1000 Gal. U. G. Tanks		1000 Gal.		
1	L	Over 1000 Gal. U. G. Tanks		2000 Gal.		
		Blind Pumps				
1	C	Computing Pumps	Bennett	76	MJ 1828-S	8672
1	C	Computing Pumps	Bennett	541F	MK 11487-S	8843
1	C	Computing Pumps	Wayne	40A	2655	7269
1	C	Meter Pumps	Bennett	373	96408	
1	C	Meter Pumps	Bennett	543F	97502	
		Meter Pumps				
[fol. 633]						
1	C	Visible Pumps	Boyle Dayton	78	2159	1294
		Visible Pumps				
1	C	Air Compressor	Hallett RSV-7	14	14165	7863
1	L	Air Compressors w/1½ HP Motor /#86798	Baker—Mod 684		3897	
		Battery Chargers	McColpin-Christie	100V 600W	Hy-EF-1012121	
1	C	Cash Register	National	Mod 1046 GT	2378024	14247
1	C	Gas Buggies	G & B	50 Gal.	23573	RG-1046
3	L	Hi-Boys	Bennett	30 Gal.		
1	C	Hi-Boys	Marvel	30 Gal.	10267	4378
1	C	Hi-Boys	Marvel	30 Gal.	10268	4379
		Hi-Boys				
		Hi-Boys				
		Hi-Boys				
1	C	Hoist	Hallett-Hydraulic	A-33	8279	
1	C	Lube Cabinet	Rheem	Steel		10867
1	C	Lube Unit	Richfield	Series "B"	322	10942

Retailing Equipment (Cont'd)

Quantity (See Note)	•	Description	Make and Model	Type or Size	Serial No.	Company Equip. No.
1	C	Grease Guns	Graco U-840	Hand		
1	C	Grease Guns	Graco P-610	Water Pump		
1	C	Utility Guns	Graco U-830			
		Utility Guns				
1	C	Chassis Lube Unit	Graco CS-600	Z-178S-TIP		
		Extensions				
1	C	Adapters	Graco CS-163	Swivel		
1	C	Adapters	Graco Z-70	Hydraulic	Alemite	
1	C	Universal Joint Gun	Graco UP-640			
1	C	Steering Gear Gun	Graco UP-620			
		Power Gun				
4	C	Pressure Tanks				
3	C	Meters				
2	C	Hi-Pressure Air Hoses				
		Air Operated Pressure Guns				
1	C	Nozzles	Graco U-805	Suction		
1	C	Wheel Bearing Gun	Graco P-610			
2	C	Grease Guns	Graco AJ-215 Jr.	Power		
3	C	Grease Packs	G & B			
1	C	Oil Stream Gun	Graco S-575			
3	L	Air Wells	Cox Comb.	UB A&H		
		Air Wells				
1	L	Air Towers	Steel	16'		
1	C	Air Towers	Gowser Comb.	Mod 20t w/6 U. G. Tanks	4704	1297
1	C	Lubos	Bowser Comb.	Mod 20t w/6 U. G. Tanks	4704	18297
		Electric & Oil Heaters				
2	L	Neon Signs	"Richfield"	18'		
1	L	Neon Signs	"Eagle"			
1	C	Car Washing Machines	Bean w/1 HP Wagner Mtr # 4978		4297	10826
1	C	Neon Towers	Steel w/2 Richfield Signs (Neon)			
1	C	Safe	Diebold Floor		368927	9826
1	C	Water Cooler	GE	Bubler	89274	9827

Schedule A

Note: The absence of any specific quantity inserted against any item of equipment in this column shall be indicative of "None."

* In this column letter "C" indicates Company-Owned, "L" indicates Lessor-Owned.

Movable and Other Operating Equipment

Quantity (See Note)	*	Description	Quantity (See Note)	*	Description
1	C	Adapters, Hoist	1	C	Measures—Swingspout Oil, 1 Pt.
1	C	Auto Lift, Hydraulic	1	C	Measures—Swingspout Oil, 1 Qt.
1	C	Auto Jacks	1	C	Measures—Swingspout Oil, ½ Gal.
1	C	Auto Jack (Walker Trans.)	1	C	Measures—Swingspout Oil, 1 Gal.
1	C	Auto Jack (Joyce Hydr. Pumper)	2	L	Mirrors, in Restrooms w/Shelves
2	L	Basins, Wash in Restroom	2	L	Measures—Krackle Krome ¼ Gal.
2	L	Baskets, Waste Paper	2	L	Measures—Krackle Krome 1 Gal.
		Battery Service Kit	1	C	Oiler, Spring
1	C	Boards, Richfield "A"/"I"	1	C	Oiler—Pine Copperized
1	C	Brooms (Push)	1	C	Oiler—Goldenrod
1	C	Brushes (Floor)	8	C	Padlocks with Keys (Yale)
1	C	Buckets (3 Gal. Water)	1	C	Pails, Gem (Windshield Wiper Buckets)
			2	C	Pails, Water
			2	C	Pliers 6"–8"
1	C	Cans, Emergency 1 Gal.			Pump, Hand—for Bbls.
		Cans, Galv. Oil Service ....Gal.			
		Cans, Oil			
1	C	Can, Rubbish	3	C	Racks, Canned Oil Display
2	C	Cans, Sanitary Step-on	1	C	Racks, Oil, Bottle w/8 Bottles
1	C	Cans, Test	2	L	Racks, Tire (Steel Pipe)
1	C	Can Openers for Canned Oil	1	C	Rim Tool Tire Spreader
1	L	Cash Box and Desk Complete	1	C	Rake—Yard
		Containers, Grease	1	C	Rim Tool—Pacific
1	L	Creeper (Boyd Auto)			Safe (Page 2)
			1	C	Scraper, Putty Knife (Windshield)
2	L	Dispensers, Powdered Soap	2	C	Screw Drivers 4"–6"

2	L	Dispensers, Seat Cover
2	L	Dispensers, Toilet Paper
3	C	Drums, Corrugated w/Faucet 30 Gal.
1	C	Drums, Klenzine w/Faucet 50 Gal.
3	C	Drums, Ser. Sta. w/Faucet 15 Gal.
2	L	Dispensers—Paper Towel
		Fans
1	C	Fire Extinguishers, 1 Qt.
1	C	Fire Extinguishers, 2½ Gal.
1	C	Flashlights
		Fountains, Drinking
1	C	Funnels 6"
1	C	Funnels 8"
1	L	Gauges, Air (Service Equip. Co.)
3	L	Gauges, Air (Diamond U)
3	L	Gauge Sticks (550, 1000, 2000)
1	C	Hammer, Ball-Pein
1	C	Hand Oilers—Pressure Oilers
3	L	Hose, Air
6	C	Hose, Gasoline
1	L	Hose, Garden (50 ft.) w/nozzle
1	L	Incinerator (Concrete)
8	L	Lamps 30 Watt
10	L	Lamps 60 Watt
12	L	Lamps 75 Watt
14	L	Lamps 100 Watt
1	C	Lube Check Boxes, Complete
1	C	Light—Drop Cord 25' Length
1	C	Ladder (Step) (Extension Ladder)
1	C	Shackle Clamps
1	C	Shackle Bars
1	C	Signs, Porcelain "Lubrication"
1	C	Signs, "Washing"
1	C	Signs, "Stop Your Motor"
2	C	Signs, "Men" and "Women"
1	L	Signs, Wood "Lubrication & Washing"
1	C	Signs, Wood "Richfield"
1	C	Signs, Wood "Richfield-Hi-Octane"
		Signs
1	C	Signs, "No Smoking"
1	C	Stools—Boyce Service Station
1	L	Spark Plug Cleaner (See Page 4)
1	C	Tanks, Tube Testing
2	L	Toilets, Comp. in Restrooms
1	C	Tray for Swingspout Oil Measure
		Tire Tool Board (See Page 4)
1	L	Vulcanizer Unit—Dill-6601
4	C	Wrenches, Crescent 6", 8", 10", 12"
1	C	Wrenches, Hub Cap
6	C	Wrenches, Socket (Set)
6	C	Wrenches, Plug (Set)
1	C	Wrenches, Stillson 14"
1	C	Wrench—B & S Auto
1	C	Wrench—Hudson & Essex Clutch
1	C	Wrench—Tank Cap
2	C	Wrench—Monkey
1	C	Work Bench—Wood (Luberoom)

[fol. 635]

Schedule A

Note: Symbol "C" indicates Company-Owned and "L" indicates Lessor-Owned

Page Four of Four.

1	C	Herbrand 88–14 Tire Tool Board with 1 #1126 Iron 1 #1127 Iron 1 #1124 Rim Tool 1 Pair #1134 Irons 1 #1128 Spreader 1 #1131 Awl 1 #1132 Wire Brush 1 #403 Chisel 1 #443 Punch 1 #1142 Hammer 1 #1051X Wrench
1	L	Goodyear Battery Service Kit with 1 Hydrometer 1 Syringe 1 Terminal Cleaner 1 Carrying Strap 1 #750 9/16 × 5/8 Battery Terminal Wrench
1	L	Champion Spark Plug Cleaner and Tester with 1 Champion Spark Plug Tool and Gap Gauge 1 Duro #1420 5/8 Spark Plug Wrench 1 Duro #1418 9/16" Spark Plug Wrench 1 Duro #864 1-1/32" Spark Plug Wrench 1 Duro #862 29/32" Spark Plug Wrench 1 Duro #861 27/32" 1-1/32" Spark Plug Wrench 1 No Brand 15/32" & 31/32" 3 Spark Plug Wrench Handles

Other Than Service Station Equipment

1	C	Cafe Building (Frame) 18′ x 36′ x 12′
1	C	Bathhouse (Frame) 15′ x 20′ x 10′—Containing two complete toilets, two complete showers and one heater-room.
1	C	Brick Barbecue Pit
7	C	Cabins, Single (Frame) 18′ x 16′ x 8′
7	C	Cabins, Double (Frame) 15′ x 16′ x 8′
22	C	Iron Beds
21	C	Bed Springs
7	C	Electric Hot Plates (in cabins)

etc., etc.

Lessee—John R. Sawyers

Lease Effective April 1, 1941 Date Signed:

[fol. 636] GOVERNMENT'S EXHIBIT 10-A

Pasadena, July 31st, 41.

Mr. F. F. Little

Subject: Service Station #595, 4 Huntington Drive, Alhambra, California, Harlan G. Mills, Sublessee

With reference to page two of Serial Letter No. 81, dated May 7th, 1941, regarding the change over of 542 subleases, we wish to call your attention to the circumstances surrounding our sublease with the above dealer and request that his present 542 be allowed to remain in effect.

Mr. Mills is an exceptional dealer and we wish to do nothing to rupture the good relations we have always had with him and in presenting the new type 542 for his signature we are very much afraid he will take offense.

His present 542 calls for payment of gallonage rent on the basis of his sales taken from the meter readings of his gasoline pumps on the close of business on the last day of each month instead of on sales as is the custom on all other L. O. stations. His purchases of gasoline are made in truck and trailer quantities on which a discount of ¼c is allowed in addition to temperature correction.

May we have your approval at once so that we can submit the new Schedule before September 1st, 1941.

B. J. Shaffer.

BJS-L

[fol. 637] GOVERNMENT'S EXHIBIT 10-B

Inter-Office Communication

Location Los Angeles

August 11, 1941.

In Reply, Refer to File No. .....

To Mr. B. J. Shaffer
Dept. Pasadena

Subject: Service Station #595, #4 Huntington Drive, Alhambra, California

In reply to your letter of July 31st, this is to inform you that the management does not approve the continuance of the six month basis in so far as Station #595 is concerned. It is felt that after this long period of time Mr. Mills should have sufficient confidence in the company to sign the new 24-hour type paper.

Mills' separate letter agreement of ¼c per gallon on truck and trailer deliveries will, of course, continue in effect, and it will be permissible for you to alter the new Form 542 in the same manner as the old one so as to provide for the computation of subrentals on the basis of sales from the station rather than deliveries thereto.

Please be governed accordingly and submit the new agreement at your earliest convenience.

F. F. Little.

FFL:hp

8/13/41. Mr. Mills will be signed as soon as possible. In any event before the next cancellation period of 2/28/42.

B. J. Shaffer.

[fol. 638] GOVERNMENT'S EXHIBIT 10-C

Pasadena Branch, October 27, 41.

F. F. Little

Sales

Subject: SS#595, #4 Huntington Dr., Alhambra, California, Harlan G. Mills, Lessee

Subject account has been asked to sign a new 542 with the 24 hr. cancellation, but he is reluctant to do so, as he states that he should get special consideration due to circumstances surrounding the account. When we took it over 5 years ago, it was thru Mr. Mills efforts that we acquired the account as a LO deal. He was responsible for selling the property owner on our deal. He states also he has such an investment in equipment, such as lighting plant, and special tune-up equipment, and also around $1500.00 in personal charge accts., that is would be impossible for him to move out in 24 hrs. notice.

Mr. Mills asls us to change the contract to at least a 60 day notice as this would give him chance to make other arrangements in case of cancellation.

B. J. Shaffer.

BJS/rv

[fol. 639] GOVERNMENT'S EXHIBIT 10-D

Inter-Office Communication

Location Los Angeles

November 4, 1941.

In Reply, Refer to File No. .....

To Mr. B. J. Shaffer
Dept. Pasadena

Subject: Service Station No. 595, 4 Huntington Drive, Alhambra, California

The proposal contained in your letter of October 27th has again been presented to the Management and again

resulted in a rejection. We will have no choice but to convert Mr. Mills to the 24-hour basis. Surely if the matter is properly explained to him the conversion can be effected without difficulty. This will in no way affect his agreement covering Truck and Trailer Allowance and we have previously informed you that you may make the same alterations in the new form as appeared in the original one.

Please get behind this matter personally and bring about the conversion on the earliest possible date.

F. F. Little.

FFL:cag

11/5/41. Regardless Mr. Mills doesn't want to sign. He would like to talk it over with Mr. Little at his convenience.

B. J. Shaffer.

[fol. 640] GOVERNMENT'S EXHIBIT 10-E

Inter-Office Communication

Location Los Angeles, California

November 10, 1941.

In Reply, Refer to File No. .....

To Mr. B. J. Shaffer
Dept. Pasadena

Subject: Service Station No. 595, 4 Huntington Drive, Alhambra, California, Harlan Mills

Reference is made to our letter of November 4 and to your reply of November 5, both of which had reference to the refusal of this account to be converted from the six month basis to the 24 hour basis.

The management does not choose to make an exception in this instance and as you have been unsuccessful so far, we suggest that you hold this letter in your office and bring it to my attention the next time I call there.

F. F. Little.

FFL:bm

[fol. 641] GOVERNMENT'S EXHIBIT 11

Termination Agreement

This Agreement, executed this ..... day of ....., 19....., by and between Richfield Oil Corporation, hereinafter called "First Party," and ....., hereinafter called "Second Party" (whether one or more),

Witnesseth:

That for and in consideration of the mutual covenants and agreements of the parties hereto, hereinafter set forth, the parties hereto agree that the agreements hereinbelow described shall be and the same are hereby terminated as of the close of business on the ..... day of ....., 19....

Second Party hereby accepts from First Party, as of the date of termination herein set forth, surrender of all property, if any, leased or licensed to First Party under any of the aforesaid agreements and releases and discharges First Party and the predecessors in interest of First Party from any and all claims, liabilities, obligations and/or causes of action arising out of or in connection with said agreements and/or the performance or non-performance of any of the terms, provisions or covenants therein contained.

In Witness Whereof, the parties hereto have executed this agreement the day and year first hereinabove written.

Richfield Oil Corporation, By —— ——, First Party,
—— ——, —— ——, Second Party.

———

[fol. 642] GOVERNMENT'S EXHIBIT 12

4/10/44.

Reported Verbally to H. T. H.

E. J. Bradford

Please give me a report on why Walt Edgar has only bought 10 tires this year from Goodyear when his sales must have been at least 75. Goodyear have 7000 tires on hand so lack of stock is no excuse. Inasmuch as OPA only

requires Edgar to hold old tires 30 days after sale and he has dozens and dozens on hand his sales were probably in excess of 75.

H. H. 4/4

[fol. 643] GOVERNMENT'S EXHIBIT 13

Richfield Oil Corporation

Northern Division, 217 Pine Street

Seattle, Washington, May 2, 1944.

Walter Edgar
2304 W. Burnside Street
Portland, Oregon

Dear Sir:

Richfield Oil Corporation, as "Lessor", and you as "Lessee", have made and entered into a Service Station Lease dated the 17th day of March, 1942, by the terms of which there was leased certain real property situated in the City of Portland, County of Multnomah, State of Oregon, described in the Schedule 'A' of said Service Station Lease as follows:

> "The property hereunder leased is that certain real property used for service station purposes upon which the buildings, fixtures, equipment and facilities hereinafter described in this Schedule 'A' are situated, which real property is located at the southwest corner of W. Burnside Street and Twenty-Third Avenue (otherwise known as 2304 W. Burnside Street) and is more particularly described in the lease referred to in paragraph 11 of this lease."

together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated on said real property and particularly described in said Schedule 'A'.

Said Service Station Lease is for the period commencing March 17, 1942, and continuing until terminated by either party by means of a written notice of election to

terminate served on the other party at least twenty-four (24) hours prior to the effective date of termination specified in such notice.

Richfield Oil Corporation hereby notifies you that it elects to terminate said Service Station Lease effective on the 3rd day of May, 1944, at the hour of 7:00 P. M., and hereby demands that at such time upon such date you surrender to the agent of Richfield Oil Corporation requesting such surrender the real property, improvements, buildings, fixtures, equipment and facilities leased by said Service Station Lease.

Yours very truly, Richfield Oil Corporation, By —— ——, For the Division Manager.

"Received and Accepted."

I have read the above, W. F. Edgar.

[fols. 644-650] GOVERNMENT'S EXHIBIT 16

David Weil. Mr. Dinkins has approved. Please draw necessary Bill of Sale. Brower.

Linnton, March 28, 5.

Mr. W. T. Dinkins

Home Office

Subject: SS-831-A, 21st & Broadway, Portland, Oregon

We purchased the subject location in 1941. The service station buildings and the super buildings together with all equipment are owned by the dealer, Frank Harding. We now propose to purchase the service station and super buildings from Mr. Harding and he has finally agreed to sell them to us for the sum of $100.00.

We are now and have been since Pearl Harbor in the position of being at Harding's mercy for the reason that if any misunderstanding or difficulty should occur between us, he could remove the service station buildings and super buildings and we could not replace them at this time and we would be sitting with a fine location but unable to operate it.

Because our purchasing these improvements will protect

us against any eventuality and because we are able to buy them for such a nominal figure, it is our recommendation that the purchase be consummated as soon as possible.

Following is a description of the improvements so that if you concur with our recommendation the necessary Bill of Sale and papers can be prepared to handle the transaction:

1—SS Building consisting of office and restroom, 15′x20′
1—SS Canopy, 15′x22′
1—SS Greasing Canopy over pits, 28′x30′
1—Storage room and shop, 20′x38′ with 10′x38′ canopy

E. Kirby.

HTH:FS

(Here follow 2 Photolithographs, side folios 651-657, 658)

SERVICE STATION GALLONAGE

D. W. COLMENY
LAS TUNAS AND LIVE OAK, ARCADIA

Service Station No. 7028-F

Bulk Agency _____

	1947	1948	1949	1950	1951	1952	1953	
January					17836			
February				16961	22071			
March				17854	18308			
April				17528				
May				16906				
June				22231				
July				16906				
August				17261				
September				21751				
October				22262				
November				17628				
December				22406				
TOTAL								
AVERAGE								

651-657

Government Exhibit 17E 5094

SERVICE STATION GALLONAGE

D. W. COLMERY
LAS TUNAS AND BALDWIN, ARCADIA

Service Station No. 7027-E

Bulk Agency

	1947	1948	1949	1950	1951	1952	1953	
January					13460			
February				12600	12910			
March				12600	12900			
April				14800				
May				12620				
June				17100				
July				14800				
August				12964				
September				14800				
October				12600				
November				17085				
December				17530				
TOTAL								
AVERAGE								

50911

Government Exhibit 18E

[fol. 659] GOVERNMENT'S EXHIBIT 20-A

Seattle, Washington, October 7, 1947.

Mr. E. Kirby

Subject: R. J. De Longe, Operator SS #819-D, Olympia, Washington

In line with our conversation I am listing events leading up to the present situation at Service Station 819-D, Olympia, Washington:

1. R. J. DeLonge was installed as operator at this service station on November 1st, 1946 and during the period of time that he was operating this station he did an outstanding job in gallonage through this unit. Yet approximately 4 weeks ago he contacted our Agent Orville Kisor at Olympia, and requested permission to sell his inventory of stock and equipment.

2. R. J. DeLong advertised the stock and equipment at this station for sale and had several parties interested in purchasing, but apparently was unable to reach an agreement with any of his prospective purchasers.

3. Stan Winters, manager for the operator of the GP unit in Seattle at 6th and Olive was interested in this service station, but did not desire to purchase that portion of the inventory which pertained to motor parts and motor repair equipment. Mr. Winters was known to Orville Kisor in the past, but was contacted by our Merchandiser J. E. Knudson when he was advised that DeLonge wished to sell his inventory at this unit.

4. Merchandiser Knudson and Salesman Densmore brought Operator DeLonge and Winters together, Monday, September 22nd, 1947 to reach an agreement and sale so that Winters could be checked into this service station as operator.

5. On this date (September 22, 1947) Will Derig, Olympia Attorney, representing DeLong picked up from our representatives the 306 Mutual Termination Agreement unsigned by DeLonge. When this Attorney left the station he took these forms with him, and according to information developed later left the city of Olympia for 2 days with these forms still in his possession (unsigned).

6. Merchandiser Knudson and Salesman Densmore continued to supervise the transfer and sale of stock and equipment at this unit, and apparently an agreement was reached by both DeLonge and Winters wherein Winters would purchase that stock and equipment that pertained to the operation of the service station and that DeLonge would remove from the station stock and equipment that pertained to mechanical repair.

[fol. 660] 7. Although the Mutual Termination Agreement was not signed a new 542 Agreement was made by our company representative, and signed by Winters to be effective at the beginning of business September 23, 1947.

8. DeLonge left the service station at 8 o'clock the morning of September 23rd, 1947 and turned over to Winters inventory of stock and equipment remaining in the station as he states through the direction of the Richfield Representatives. No 306 Mutual Termination Agreement was signed by DeLonge. An inventory value was finally reached by both Winters and DeLonge for a value of stock and equipment transferred as of the 23rd of September in the sum of $1,603.16, although Bulk Sales Affidavit listing this amount was not filed until October 3rd, 1947.

9. Winters has been in the possession of this service station since September 23rd, 1947, and at the request of our attorney Mr. Woods signed the letter stating that he understood that the acceptance of any Form 542 Service Station Lease was subject to prior cancellation of any previous Form 542. Original of this letter is attached for your information.

10. On Saturday, October 4th, 1947 Attorney Will Derig stated that they were retained by DeLong to obtain reimbursement from Richfield Oil Corporation as follows:

(a) Value of inventory removed from station $2,047.38.

(b) Salary for DeLonge based on $300.00 per month and DeLonge's helper, Mr. Goodyear at $150.00 per month. This salary reimbursement to cover a period of two weeks for a total of $225.00. This combined with the inventory removed from the station of $2,047.38 adds up to a request of $2,272.38.

(c) In addition to this figure they desire damages in the amount of $5,000.00.

11. The Attorneys state their request on the basis—

(a) That deLonge was removed from the station by a company representative, who refused to allow DeLonge to continue as operator.

(b) That deLonge could not take the unit back because Winters had advertised that he "had taken over the one stop" and so business has passed from DeLonge to Winters. (Ads both newspaper and air).

(c) That the inventory removed from the station lost value because it was not in a place of business, and that this inventory should have been a portion of the sale to Winters.

(d) That the reduced inventory value made it impossible for DeLonge to pay off his obligations in Olympia, and that because of this he had lost his credit standing, was unable to start again in business in Olympia.

[fol. 661] 12. On this contact with the Attorneys Brodie, Derig and Parr, I requested that they place the above information in the form of a letter and direct it to your personal attention. This they stated they would do, and this letter should be in your hands the early part of this week.

H. C. Buck.

HCB:dnp

[fol. 662] GOVERNMENT'S EXHIBIT 21

Richfield Oil Corporation

155 West Washington Blvd., Los Angeles 15, California

July 25, 1947.

Mr. Clark F. Wagner
401 Kern Street
Taft, California

Dear Sir:

Richfield Oil Corporation, as "Lessor," and you, as "Lessee," have made and entered into a Service Station Lease dated the 1st day of January, 1946, by the terms of

which there was leased certain real property situated in the City of Taft, County of Kern, State of California, described in the Schedule "A" of said Service Station Lease as follows:

> "The North 85′ of Lots 29, 30, 31 and 32, Block 9, said property having a frontage of 85′ on Fourth Street and 100′ on Kern Street, in the City of Taft, County of Kern, State of California, more particularly described as the Southwest corner of 4th and Kern Streets."

together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated on said real property and particularly described in said Schedule "A".

Said Service Station Lease is for the period commencing January 1, 1946, and continuing until terminated by either party by means of a written notice of election to terminate served on the other party at least twenty-four (24) hours prior to the effective date of termination specified in such notice.

Richfield Oil Corporation hereby notifies you that it elects to terminate said lease, effective on the 29th day of July, 1947, at the hour of 12 midnight, and hereby demands that at such time upon such date you surrender to the agent of Richfield Oil Corporation requesting such surrender the real property, improvements, buildings, fixtures, equipment and facilities leased by said Service Station Lease.

Yours truly, Richfield Oil Corporation, By — — Clune, for Division Manager.

[fol. 663] GOVERNMENT'S EXHIBIT 21-A

City of Taft

California

Office of the City Clerk

Telephone 236

August 9, 1947.

Richfield Oil Corporation
P. O. Box 7927 Del Valle Station
Los Angeles 15, California

Attention: Mr. J. T. Foster

Dear Sir:

The Taft City Council has authorized me to convey to you that they consider Mr. Clark Wagner a representative of the highest caliber.

Our letter to you of June 21, was with the thought of your Company providing Mr. Wagner with proper facilities for conducting his business and in no way was intended to harm or effect Mr. Wagner or his business.

We all have the highest regards for Mr. Wagner and his business methods and we believe this is also the feeling of the entire community.

Sincerely, M. L. Eiland.

[fol. 664] GOVERNMENT'S EXHIBIT 21-B

Bakersfield, California, August 10, 1947.

Mr. J. T. Foster
Asst. Div. Sales Mgr.
Richfield Oil Corporation
Los Angeles, California.

SUBJECT: CLARK F. WAGNER—FORMER LESSEE, L. O. UNIT #1011, 4TH & KERN STREET, TAFT, CALIFORNIA.

The above subject former L. O. dealer at 4th. & Kern Street, Taft, California averaged 16,084 gallons per month for a twelve month period from July 1, 1946 to June in-

clusive 1947. The oil ratio for same period of time has been 1.35. Since making the change the Richfield has possibly lost 8 to 10,000 gallons of the gallonage at this station. It is my understanding that many credit card holders have returned their cards but not acting solely on their own volition as Mr. Wagner and some meddling friends have made statements that are grossly untrue in regards to the real reason for termination.

Mr. Wagner has stocked and sold Pennzoil and Quaker State Oils and was asked many times for the discontinuance of such practice but continued to sell these oils even though promises were made to effect that no more of this oil would be stocked in our station. His attitude towards T. B. A. was essentially wrong and purchased only when pressured. His general operation was extremely untidy and the stead fast excuse was that Richfield has not kept their promises to do certain improvements and he saw no reason why he should be so fastidious. The rest rooms were kept just half clean and when asked to pay just a little more heed to the cleanliness the answer would be why doesn't the Richfield paint their rest rooms at least twice a year. This type of lip and insolence was tolerated in hopes that Mr. Wagner would get in line and we as a company could maintain the gallonage desired.

Some time in June the Judge for City of Taft wrote to your office and asked that car washing be discontinued at our L. O. Unit #1011 as the water was creating a hazzard which was running accross Kern Street (U. S. Hi-way 399). Upon receipt of your letter and Mr. Shaffer's I notified Mr. Wagner to discontinue all car washing. The next day I found him washing another car and asked him why he proposed to do other than instructed. It seems that this car belonged to one of Taft City councilman and was told supposedly that it was OK and why should Richfield and I be so concerned. I at that time told him that this councilman nor others were to be concerned with our wishes and again told him to stop washing cars. At a later date Judge Eiland and I were at L. O. Unit #1011 discussing the situation and I again asked Mr. Wagner if he was still washing cars and his answer was NO. However I knew from other sources that car washing was still being continued. On

July 21, 1947 Judge Eiland called me in Bakersfield and gave me the following information on two different cars that had been washed and asked that it be discontinued.

Ford—License Number 99 E 499 Sunday afternoon, July 20th.

Maroon Buick—License Number 4T 9767, at 1:15 P. M., July 17th.

After this I could plainly see that Mr. Wagner did not intend to co-operate and do the essential things for better [fol. 665] service station operation. Thus, I elected to terminate Mr. Wagner's service station lease at L. O. #1011, take the gallonage loss and affiliate ourselves with lessee who will appreciate the Company and market in a manner fitting to our policys.

Trusting that this explaination shall clarify the reasons for Mr. Wagner's termination as lessee of our L. O. Unit #1011.

F. C. Kelley, Terr. Slsm.

cc: B. J. Shaffer

Government Exhibit 22G

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name R.R. MATHIS Date JUNE 19

Street Address _____ City FRANKLIN Agency HILLSBORO

SS# 401-22-[illegible] Operating Hours _____ m. To _____ m. Last Survey Made _____ 19

Total Sales Last Month:— Gasoline _____ Motor Oil _____ Motor Oil Ratio _____

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED	✓			
BUILDING EXTERIOR CLEAN	✓			
BUILDING INTERIOR CLEAN	✓			
CONDITION of PAINT	–			
YARD and DRIVEWAYS				
PLANTING AREA	✓			
ADJOINING AREA	✓			
WINDOWS CLEAN	✓			
WINDOW DISPLAYS SET UP	✓			
MERCHANDISE CLEAN	✓			
LIGHTS - Proper Size - Working	✓			
UNAUTHORIZED SIGNS				✓
SIGNS CLEAN (Ridge, etc.)	✓			
PUMPS CLEAN - Prices Posted	✓			
FIRE EXTINGUISHERS - Filled - Tagged	✓			
OIL DISPENSERS - Clean - Decaled	✓			
CAN RACKS - Clean - Filled	✓			
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed	✓			
LUBE EQUIPMENT - Clean - Decaled	✓			
HOIST - Clean - Working Properly	✓			
FLOOR - Clean - Sump Working Properly	✓			
ADEQUATE TOOLS - Well Arranged	✓			
PROPER DISPOSAL of REFUSE	✓			
REST ROOMS				
WALLS CLEAN	S			
FLOOR CLEAN	S			
TOILET BOWL CLEAN	S			
WASH BASIN CLEAN	S			
MIRRORS - Clean and in place	S			
WASTE BASKETS and Sanitary Receptacles	S			
PAPER TOWELS	–	–		
BORAXO DISPENSER FILLED	S			
TOILET TISSUE	S	S		
SEAT COVERS	–	–		
COAT HOOKS	S	S		
DOORS UNLOCKED	S	S		
CHECKED EVERY HOUR				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN	✓			
SHAVE and HAIRCUT	✓			
AUTHORIZED JACKET	✓			
AUTHORIZED UNIFORM	✓			
SALES and SERVICE AIDS				
Performs "5" Point Safety Service				
Observance of Plus Sales				
Oil Napkins and Dispenser				
Approved Windshield Cleaning Equip.				
Credit Card Clip Boards				
Job Tickets				
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index				
Date Book				
Follow-Up Cards				
Rubber Name Stamp				
MANAGEMENT				
Adequate Bookkeeping System				
Monthly and Daily Sales Ratios				
Stock Inventory				
Federal and State Taxes				
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis				
Prospect List				
Market Area Map and Pins				
3 x 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER

Acknowledged [illegible]

RICHFIELD REPRESENTATIVE

By R.R. Thomas

Write on reverse side what you did to help this dealer.

666

317

Government Exhibit 23A

RICHFIELD OIL CORPORATION

155 WEST WASHINGTON BLVD. • LOS ANGELES 15 • CALIFORNIA

January 9, 1946.

James T. Smith
Southwest corner of Imperial Hwy.
and Figueroa Street
Los Angeles, California

Dear Sir:

Richfield Oil Corporation, as "Lessor," and you, as "Lessee," have made and entered into a Service Station Lease dated the 9th day of January, 19 42, by the terms of which there was leased certain real property situated in the City of Los Angeles, County of Los Angeles, State of California, described in the Schedule "A" of said Service Station Lease as follows:

Lots 9, 10 and the northerly 14 feet of Lot 11, except the westerly 40 feet thereof, Block "A", Replat of Figueroa Heights as per map recorded in Bk 11, Page 103, of Maps

together with all appurtenances thereunto belonging and with all improvements, buildings, fixtures, equipment and facilities situated on said real property and particularly described in said Schedule "A".

Said Service Station Lease is for the period commencing January 12, 19 42, and continuing until terminated by either party by means of a written notice of election to terminate served on the other party at least twenty-four (24) hours prior to the effective date of termination specified in such notice.

Richfield Oil Corporation hereby notifies you that it elects to terminate said Lease, effective on the 11th day of January, 19 46, at the hour of 10:00 a.m. and hereby demands that at such time upon such date you surrender to the agent of Richfield Oil Corporation requesting such surrender the real property, improvements, buildings, fixtures, equipment and facilities covered by said Service Station Lease.

Yours truly,

RICHFIELD OIL CORPORATION,

By [illegible]

667

Government Exhibit 25

884115

Inventory k. Koll 1-27-45
1046 11T Ave So

Product Richfield	CHE		Gals	Total		
Weslube	Bulk	30	21			
Richlube	24/1	10	12			
"	Bulk	20	20			
"	24/1	30	18			
"	Bulk	30	106			
"	Bulk	40	20			
Rich Penn H		10	0			
"	Bulk	20	55			
	"	30	83			
	"	40	15	Rich Full		
Penn Race		30	212	560	Nil	
Royal Windsor						
Hills Bulk Mois.			528			
33 2 gal cans			66	Royal Windsor		
Hibbs			55	704	Nil	
Pennzoil						
24/1		30	04			
5 gal Pails		30	20			
Bulk		10	25			

[illegible] the inventories in evening
[illegible] Koll S.S. as of 1/27/45.

[illegible] Richfield & Penn
[illegible] Mr. Moore, Pennlube and
[illegible] of by him, other than orders
[illegible] & check made by Manufacturing
[illegible] - should be kept duplicate
W. Hoffman 2/28

1946 1st Hve Co

Product		SAE	Gals	Total
Richfield				
Weslube	Bulk	30	21	
Richlube	24/1	10	12	
"	Bulk	20	20	
"	24/1	30	18	
"	Bulk	30	106	
"	Bulk	40	20	
RichPenn		10	0	
"	Bulk	20	53	
	"	30	83	
	"	40	15	Rich bulk
Penn Base		30	212	560 Note
Royal Windsor				
11 bbls	Bulk	Mixed	583	
33 2 gal cans			66	Royal Windsor
11 bbls			55	704 Note
PennZoil				
24/1		30	04	
5 gal Pails		30	20	
Bulk		10	26	
		20	10	Penn Zoil
		30	26	56

Note: Quantity to be indicated in among Richfield & Penn Wells S.S. as of 1/31/46.

Note: Richfield & Penn Wells interchangeable between Richfield & Penn Wells

Note: The Penn products are among the most popular of the line, either the Penn or Penn Zoil should be used by Manufacturers of vehicles in which lubrication is to be done by hand.

W. Hoffman 2/20

PRODUCT		SAE	GALS	TOTAL
RICHFIELD	Bulk	40		
RESLUBE	"	30	21	
RICHLUBE	24/1	30	12	
"	Bulk	30	12	
"	24/1	40	12	
"	Bulk	40	16	
"	"	50	8	
RICH PERM		30	8	
"	Bulk	30	8	
	"	40	16	RICHFIELD 560
	"	50	16	
PERM. BASE		30	288	
ROYAL WINDSOR			360	
12 bbls. Bulk Elec.			60	
30 - 2 gal. cans			60	ROYAL WINDSOR 704
24 bags			224	
PENNZOIL				
24/1		30	36	
5 gal. pails		30	20	
Bulk		30	20	PENNZOIL 84
		40	10	
		50	28	
RICHFREE				
Bulk		20	30	RICHFREE 30
TRITON				
24/1		30	3-3/4	TRITON 3-3/4
WAVELINE				WAVELINE 20
5 gal. pails		30	20	
PENNZOIL PUMP (Finishing Oil)			15	
Wheel Bearing			25 lbs.	
Universal			35 "	
Cheesie			175 "	
RICHFIELD GREASE		90	115 lbs.	
		140	230 "	

	SAE	GALS	TOTAL
24/1	10	16	
Bulk	20	108	
"	30	32	
24/1	30	12	
Bulk	30	16	
"	40	8	
"	50	4	
"	60	12	
Jewel	20		
	30	106	RICHFIELD 284
9 Drums-Bulk		477	
30-2 gal.cans		60	ROYAL WINDSOR 537
Bulk	30	20	
2-5 gal Pails	30	10	
24/1	30 (Qts.	3	PENNZOIL 43
Bulk	20	20	RICHFREE 20
24/1		3-3/4	TRITON 3-3/4
5 gal. Pails		10	WAVELINE 10
		10	
		25 lbs.	
		35 "	
		7 "	(Last is in Can)
	90	115 lbs.	
	140	230 "	
Cheesie		115 "	

819

Seattle, Washington March 20, 5.

320

Mr. L. H. Bagby

SUBJECT: KOHL LUBRICANT
INVENTORY MARCH 17/45
vs " JANUARY 27/45

Dear Sir:

Attached please find Inventory as of March 17, in duplicate on Kohl Service Station.

In comparing Inventory of January 27, with this one, you will note his Inventory is going down fairly rapidly.

Richfield Products	decreased	276	gallons
Royal Windsor	"	167	"
Ring free	"	10	"
Pennzoil	"	41	"
Triton	"	0	"
Valvoline	"	10	"
Total	"	504	

U. S. vs. RICHFIELD (6896-Y)

SUBPOENA DUCES TECUM - NO. 2

PARAGRAPH NO. II ITEM NO. 6 V

This makes a decrease of 252 gallons per month. He has purchased in this almost two month period - 179 Motor Oil and 335 pounds of Grease from Richfield and claims no products purchased from any competitor.

WEH:C Enc.

W. E. Hamilton

670

[fol. 671] GOVERNMENT'S EXHIBIT 26-A

UNITED STATES v. RICHFIELD OIL CORPORATION

Civil Action No. 6896-Y

Compilation of Certain Data and Evidence Called For from the Defendant in a Subpoena Duces Tecum Dated February 7, 1951, Served on Defendant.

[fol. 672] UNITED STATES v. RICHFIELD OIL CORPORATION

Civil Action No. 6896-Y

Index to Attached Stipulation

Paragraph No.	Page No.
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* * * * * * *

[fol. 673] Subpoena Duces Tecum

Paragraph No. 2

The originals of all Form 542 Richfield Service Station Leases in full force and effect ... of December 31, for each

year 1938 to 1950, inclusive, between Richfield and operators of service stations owned by defendant, or leased by defendant from a lessor who is a person, firm, or corporation other than the operator of the service station. In lieu of the requested documents, a compilation prepared from said documents showing the location, by states, of the number of said agreements in full force and effect as of December 31, for each year from 1938 to 1950, inclusive, will be accepted.

For response thereto, defendant submits a compilation as follows:

Schedule No.	I	All States
Schedule No.	II	Arizona
Schedlue No.	III	California
Schedule No.	IV	Idaho
Schedule No.	V	Nevada
Schedule No.	VI	Oregon
Schedule No.	VII	Washington

Note: The compilation includes Service Station Leases entered into by the defendant with the operators of retail service station outlets on Form 542. The defendant refers to this type of outlet as an L. O. station. The lease form of the defendant on this type of outlet is represented by Government Exhibits 1, 1a to g, inclusive, and by Government Exhibit 2. The schedules include L. O. truck stations on Form No. 1095, the aggregate number of which in All States did not exceed fifteen (15) in any year.

[fol 674] Paragraph No. 2

Schedule No. I

All States

Form 542—L. O. Stations

December 31st of	
1938	1103
1939	1233
1940	1412
1941	1401
1942	1215
1943	1283
1944	1209
1945	1168
1946	1135
1947	1120
1948	1202
1949	1330
1950	1343

[fol. 675] Paragraph No. 2

Schedule No. II

Arizona

Form 542—L. O. Stations

December 31st of	
1938	83
1939	97
1940	100
1941	94
1942	68
1943	74
1944	68
1945	69
1946	64
1947	66
1948	70
1949	71
1950	70

[fol. 676]

Paragraph No. 2

Schedule No. III

California

Form 542—L. O. Stations

December 31st of	
1938	769
1939	847
1940	914
1941	883
1942	724
1943	806
1944	776
1945	752
1946	744
1947	726
1948	775
1949	855
1950	870

[fol. 677]

Paragraph No. 2

Schedule No. IV

Idaho

Form 542—L. O. Stations

December 31st of	
1938	1
1939	14
1940	16
1941	18
1942	17
1943	17
1944	16
1945	17
1946	17
1947	20
1948	22
1949	17
1950	16

[fol. 678] Paragraph No. 2

Schedule No. V

Nevada

Form 542—L. O. Stations

December 31st of	
1938	12
1939	15
1940	18
1941	20
1942	18
1943	20
1944	17
1945	19
1946	18
1947	17
1948	20
1949	21
1950	21

[fol. 679] Paragraph No. 2

Schedule No. VI

Oregon

Form 542—L. O. Stations

December 31st of	
1938	78
1939	81
1940	145
1941	152
1942	147
1943	136
1944	127
1945	123
1946	114
1947	110
1948	118
1949	147
1950	148

[fol. 680] Paragraph No. 2

Schedule No. VII

Washington

Form 542—L. O. Stations

December 31st of	
1938	160
1939	179
1940	219
1941	234
1942	241
1943	230
1944	205
1945	188
1946	178
1947	181
1948	197
1949	219
1950	218

[fol. 681] Subpoena Duces Tecum

Paragraph No. 3

The originals of all "3-C Operator's Leases, Form 668," "3-C Service Station Leases, Form 362," "3-C Operator's Sales Contracts, Form 783," "2-B Service Station Leases, Form SL-306," "2-B Subleases, Form SD 301 SL-2B," "Agent's Commission Agreements, Form SD 302 ACA 2-B," and "Sales Contracts, Form 398," in full force and effect as of December 31, for each year 1938 to 1950, inclusive, between Richfield and retail service station dealers who either own the service station or lease the service station from a lessor other than Richfield. In lieu of the requested documents, a compilation prepared from said records, separately stated, showing the location, by states, the number of service stations which are the subject matter of any of said leases, subleases, or agreements, as of December 31, for each year from 1938 to 1950, inclusive, and the number of contracts or agreements containing any provi-

sion that the service station dealer or operator shall purchase his entire requirements of gasoline, lubricating oils, and greases from Richfield, specifying the title and form number of each, will be accepted.

For response thereto, defendant submits a compilation as follows:

Schedule No.	I	All States
Schedule No.	II	Arizona
Schedule No.	III	California
Schedule No.	IV	Idaho
Schedule No.	V	Nevada
Schedule No.	VI	Oregon
Schedule No.	VII	Washington

Government Exhibits 3, 3a to 3d, inclusive, are representative of the forms of written leases and sales agreements entered into by the defendant with the operators of the [fol. 682] type of retail service station outlet which the defendant refers to as a 2-B outlet or station. Government's Exhibits 4, 4a to 4d, inclusive, are representative forms entered into by the defendant with the operators of the type of general service station outlet which the defendant refers to as a 3-C outlet or station.

[fol. 683]

Paragraph No. 3

Schedule No. I

All States

3-C Stations (early form designated 2-B Stations)

December 31st of	Number of Service Stations	Entire Requirements Provision
1938	512	...
1939	495	...
1940	436	...
1941	369	...
1942	298	...
1943	160	...
1944	87	...
1945	42	2*
1946	117	93*
1947	198	182*
1948	252	53*
1949	247	26*
1950	261	7*

* The title and form number applying in these instances is defendant's Form 783, Operator's Sales Contract, print dates: 11–45 or 10–46. The above figures do not indicate that the contracts listed were executed in the years shown, such designated forms of Operator's Sales Contract having been discontinued in August 1948.

[fol. 684]

Paragraph No. 3

Schedule No. II

Arizona

3–C Stations (early form designated 2–B Stations)

December 31st of	Number of Service Stations	Entire Requirements Provision
1938	...	...
1939	...	...
1940	...	...
1941	...	...
1942	...	...
1943	...	...
1944	...	...
1945	...	...
1946	7	7*
1947	14	13*
1948	19	5*
1949	17	1*
1950	17	...

* The title and form number applying in these instances is defendant's Form 783, Operator's Sales Contract, print dates: 11–45 or 10–46. The above figures do not indicate that the contracts listed were executed in the years shown, such designated forms of Operator's Sales Contract having been discontinued in August 1948.

[fol. 685]

Paragraph No. 3

Schedule No. III

California

3–C Stations (early form designated 2–B Stations)

December 31st of	Number of Service Stations	Entire Requirements Provision
1938	269	...
1939	248	...
1940	207	...
1941	162	...
1942	118	...
1943	60	...
1944	26	...
1945	10	1*
1946	34	30*
1947	79	79*
1948	109	17*
1949	110	8*
1950	116	3*

* The title and form number applying in these instances is defendant's Form 783, Operator's Sales Contract, print dates: 11–45 or 10–46. The above figures do not indicate that the contracts listed were executed in the years shown, such designated forms of Operator's Sales Contract having been discontinued in August 1948.

[fol. 686]

Paragraph No. 3

Schedule No. IV

Idaho

3-C Stations (early form designated 2-B Stations)

December 31st of	Number of Service Stations	Entire Requirements Provision
1938	1	...
1939	1	...
1940	1	...
1941	1	...
1942	1	...
1943	...	...
1944	...	...
1945	...	...
1946	...	...
1947	1	1*
1948	1	1*
1949	...	...
1950	...	...

* The title and form number applying in these instances is defendant's Form 783, Operator's Sales Contract, print dates: 11-45 or 10-46. The above figures do not indicate that the contracts listed were executed in the years shown, such designated forms of Operator's Sales Contract having been discontinued in August 1948.

[fol. 687]

Paragraph No. 3

Schedule No. V

Nevada

3-C Stations (early form designated 2-B Stations)

December 31st of	Number of Service Stations	Entire Requirements Provision
1938	3	...
1939	2	...
1940	1	...
1941	1	...
1942	1	...
1943	1	...
1944	1	...
1945	1	...
1946	1	1*
1947	2	2*
1948	3	...
1949	3	...
1950	3	...

* The title and form number applying in these instances is defendant's Form 783, Operator's Sales Contract, print dates: 11-45 or 10-46. The above figures do not indicate that the contracts listed were executed in the years shown, such designated forms of Operator's Sales Contract having been discontinued in August 1948.

[fol. 688]

Paragraph No. 3

Schedule No. VI

Oregon

3–C Stations (early form designated 2–B Stations)

December 31st of	Number of Service Stations	Entire Requirements Provision
1938	80	...
1939	82	...
1940	77	...
1941	72	...
1942	60	...
1943	23	...
1944	13	...
1945	7	...
1946	23	20*
1947	38	33*
1948	44	15*
1949	43	9*
1950	45	1*

* The title and form number applying in these instances is defendant's Form 783, Operator's Sales Contract, print dates: 11–45 or 10–46. The above figures do not indicate that the contracts listed were executed in the years shown, such designated forms of Operator's Sales Contract having been discontinued in August 1948.

[fol. 689]

Paragraph No. 3

Schedule No. VII

Washington

3–C Stations (early form designated 2–B Stations)

December 31st of	Number of Service Stations	Entire Requirements Provision
1938	159	...
1939	162	...
1940	150	...
1941	133	...
1942	118	...
1943	76	...
1944	47	...
1945	24	...
1946	52	35*
1947	64	54*
1948	76	15*
1949	74	8*
1950	80	3*

* The title and form number applying in these instances is defendant's Form 783, Operator's Sales Contract, print dates: 11–45 or 10–46. The above figures do not indicate that the contracts listed were executed in the years shown, such designated forms of Operator's Sales Contract having been discontinued in August 1948.

[fol. 690] Subpoena Duces Tecum

Paragraph No. 4

The originals of all "Form 337 Sales Contracts" and "Form 398 Sales Contracts" between Richfield and any retail service station dealer who either owns the service station or leases the service station from a lessor other than defendant and who has no lease or sublease with Richfield, as of December 31, for each year from 1938 to 1950, inclusive. In lieu of the requested documents, a compilation prepared from such records showing the location, by states, and the number of said agreements, separately stated as to form number, in full force and effect as of December 31, for each year from 1938 to 1950, inclusive, will be accepted.

For response thereto defendant submits a compilation as follows:

Schedule No.	I	All States
Schedule No.	II	Arizona
Schedule No.	III	California
Schedule No.	IV	Idaho
Schedule No.	V	Nevada
Schedule No.	VI	Oregon
Schedule No.	VII	Washington

Government Exhibits 5, 5a to 5i, inclusive, are representative of the forms of written sales contracts entered into by the defendant with the operators of the type of retail service station outlet, which the defendant refers to as a "337" or Dealer station. Form 398 was used only with the 3-C (2-B type) stations; and was not used with stations of the nature above described.

[fol. 691]

Paragraph No. 4

Schedule No. I

All States

337 Stations

December 31st of	
1938	556
1939	606
1940	615
1941	708
1942	475
1943	605
1944	629
1945	881
1946	1046
1947	1061
1948	1136
1949	1204
1950	1361

[fol. 692]

Paragraph No. 4

Schedule No. II

Arizona

337 Stations

December 31st of	
1938	96
1939	49
1940	60
1941	75
1942	48
1943	46
1944	34
1945	62
1946	82
1947	69
1948	73
1949	73
1950	74

[fol. 693]

Paragraph No. 4

Schedule No. III

California

337 Stations

December 31st of	
1938	218
1939	235
1940	297
1941	340
1942	254
1943	311
1944	311
1945	393
1946	467
1947	472
1948	508
1949	559
1950	695

[fol. 694]

Paragraph No. 4

Schedule No. IV

Idaho

337 Stations

December 31st of	
1938	—
1939	7
1940	7
1941	12
1942	10
1943	15
1944	13
1945	21
1946	25
1947	28
1948	29
1949	36
1950	40

[fol. 695] Paragraph No. 4

Schedule No. V

Nevada

337 Stations

December 31st of	
1938	6
1939	10
1940	10
1941	12
1942	9
1943	11
1944	4
1945	11
1946	9
1947	16
1948	15
1949	16
1950	22

[fol. 696] Paragraph No. 4

Schedule No. VI

Oregon

337 Stations

Deeember 31st of	
1938	119
1939	162
1940	111
1941	124
1942	64
1943	110
1944	126
1945	173
1946	191
1947	183
1948	202
1949	215
1950	221

[fol. 697] Paragraph No. 4

Schedule No. VII

Washington

337 Stations

December 31st of	
1938	117
1939	143
1940	130
1941	145
1942	90
1943	112
1944	141
1945	221
1946	272
1947	293
1948	309
1949	305
1950	309

[fol. 698] Subpoena Duces Tecum

Paragraph No. 5

The originals of all "Painting Agreements" between Richfield and any service station operator, as of December 31, for each year from 1938 to 1950, inclusive. In lieu of the requested documents, a compilation prepared from said records showing the location, by states, and the number of service stations subject to each of the forms of agreements referred to in paragraphs 2, 3, and 4, above, which are the subject matter of any such "Painting Agreements," as of December 31, for each year 1938 to 1950, inclusive, will be accepted.

For response thereto, defendant submits a compilation as follows:

December 31st of	(1)	(2)	(3)	(4)
1938	109	349	98	556
1939	119	380	107	606
1940	121	385	109	615
1941	139	444	125	708
1942	93	298	84	475
1943	119	379	107	605
1944	123	394	112	629
1945	173	552	156	881
1946	205	656	185	1,046
1947	208	665	188	1,061
1948	223	712	201	1,136
1949	236	755	213	1,204
1950	267	853	241	1,361

Note: (1) This column reflects the number of 337 Sales Contracts, in effect as of the date indicated, without any accompanying Painting Agreement.

(2) This column reflects the total number of 337 Sales Contracts, in effect as of the date indicated, accompanied by a Painting Agreement signed concurrently with the 337 Sales Contract.

(3) This column reflects the total number of 337 Sales Contracts, in effect as of the dates indicated, where a Painting Agreement was executed subsequent to the execution of [fol. 699] the 337 Sales Contract.

(4) This column reflects the sum of columns 1, 2, and 3 or the total number of 337 Sales Contracts in effect as of the date indicated. Government Exhibits 5a, 5c, 5e, and 5f are representative of the forms of Painting Agreements entered into by the defendant and the operators of the 337 or dealer type of outlet.

[fol. 700] Subpoena Duces Tecum

Paragraph No. 6

The original records, or a compilation prepared therefrom, showing for each year from 1938 to 1950, inclusive,

the total gallonage of gasoline and the dollar value thereof, separately stated by states, sold or delivered for resale by Richfield to each of the classifications of stations subject to the respective agreements, contracts, leases, or subleases referred to in paragraphs 2, 3, and 4 above.

For response thereto defendant submits a compilation as follows:

Schedule No. I-(a)	L. O. Stations	All States
Schedule No. I-(b)	L. O. Stations	Arizona
Schedule No. I-(c)	L. O. Stations	California
Schedule No. I-(d)	L. O. Stations	Idaho
Schedule No. I-(e)	L. O. Stations	Nevada
Schedule No. I-(f)	L. O. Stations	Oregon
Schedule No. I-(g)	L. O. Stations	Washington
Schedule No. II-(a)	Dealer 3-C Stations	All States
Schedule No. II-(b)	Dealer 3-C Stations	Arizona
Schedule No. II-(c)	Dealer 3-C Stations	California
Schedule No. II-(d)	Dealer 3-C Stations	Idaho
Schedule No. II-(e)	Dealer 3-C Stations	Nevada
Schedule No. II-(f)	Dealer 3-C Stations	Oregon
Schedule No. II-(g)	Dealer 3-C Stations	Washington
Schedule No. III-(a)	Dealer Stations	All States
Schedule No. III-(b)	Dealer Stations	Arizona
Schedule No. III-(c)	Dealer Stations	California
Schedule No. III-(d)	Dealer Stations	Idaho
Schedule No. III-(e)	Dealer Stations	Nevada
Schedule No. III-(f)	Dealer Stations	Oregon
Schedule No. III-(g)	Dealer Stations	Washington

The following compilations are divided into three major schedules to conform to the three types of retail service station outlets involved in the instant proceeding. Schedule [fol. 701] I refers to the type of outlet represented by Government Exhibits 1, 1a to 1g, inclusive, and 2, and which the defendant refers to as an L. O. station. Schedule II refers to the type of outlet represented by Government Exhibits 3, 3a to 3d, inclusive, and 4, 4a to 4d, inclusive, and which the defendant refers to as a 2-B and 3-C station. Schedule III represents the type of outlet represented by Government Exhibits 5, 5a to 5i, inclusive, and which the defendant refers to as a Dealer or 337 station.

[fol. 702]

Paragraph No. 6
Schedule No. I-(a)
All States
L. O. Stations

Year	Gallons (000 Omitted)	Value
1938	75,772	$ 8,158,352.00
1939	84,037	9,013,051.00
1940	94,892	9,345,155.00
1941	104,459	10,456,472.00
1942	97,525	7,669,980.00
1943	73,243	7,503,495.00
1944	71,851	7,727,544.00
1945	96,909	10,401,716.00
1946	123,413	13,957,560.00
1947	120,898	15,489,336.00
1948	125,018	18,311,770.00
1949	142,953	21,739,724.00
1950	160,759	23,790,968.00

[fol. 703]

Paragraph No. 6
Schedule No. I-(b)
Arizona
L. O. Stations

Year	Gallons (000 Omitted)	Value
1938	3,076	$ 384,500.00
1939	4,010	457,140.00
1940	4,058	442,322.00
1941	4,367	489,104.00
1942	3,355	372,405.00
1943	3,265	375,475.00
1944	3,190	392,370.00
1945	4,716	575,352.00
1946	5,917	751,459.00
1947	5,992	868,840.00
1948	6,408	1,050,912.00
1949	7,120	1,213,248.00
1950	7,594	1,281,867.00

[fol. 704]

Paragraph No. 6
Schedule No. I-(c)
California
L. O. Stations

Year	Gallons (000 Omitted)	Value
1938	57,227	$ 5,951,608.00
1939	62,968	6,548,672.00
1940	70,823	6,728,185.00
1941	73,650	7,070,400.00
1942	53,146	4,942,578.00
1943	51,276	4,973,772.00
1944	50,188	5,169,364.00
1945	70,059	7,286,136.00
1946	88,778	9,765,580.00
1947	87,041	10,793,084.00
1948	87,421	12,326,361.00
1949	98,302	14,450,394.00
1950	111,289	15,769,651.00

[fol. 705]

Paragraph No. 6
Schedule No. I-(d)
Idaho
L. O. Stations

Year	Gallons (000 Omitted)	Value
1938	29	$ 2,813.00
1939	411	55,485.00
1940	914	113,336.00
1941	1,235	142,025.00
1942	756	99,792.00
1943	757	102,195.00
1944	757	102,952.06
1945	817	109,478.00
1946	1,380	193,200.00
1947	1,332	207,792.00
1948	1,475	265,500.00
1949	1,390	260,903.00
1950	1,415	262,483.00

[fol. 706]

Paragraph No. 6
Schedule No. I–(e)
Nevada
L. O. Stations

Year	Gallons (000 Omitted)	Value
1938	547	$ 62,358.00
1939	748	87,822.00
1940	888	99,451.00
1941	1,221	139,194.00
1942	1,052	122,032.00
1943	875	105,875.00
1944	771	94,062.00
1945	1,206	148,338.00
1946	1,936	245,872.00
1947	2,027	293,915.00
1948	2,281	371,803.00
1949	2,626	447,733.00
1950	2,819	479,794.00

[fol. 707]

Paragraph No. 6
Schedule No. I–(f)
Oregon
L. O. Stations

Year	Gallons (000 Omitted)	Value
1938	3,879	$ 449,964.00
1939	4,466	518,056.00
1940	5,884	629,588.00
1941	9,653	1,061,830.00
1942	7,532	851,116.00
1943	6,328	746,694.00
1944	6,234	729,378.00
1945	7,918	918,488.00
1946	9,516	1,141,920.00
1947	9,391	1,249,003.00
1948	11,226	1,762,482.00
1949	15,088	2,441,239.00
1950	16,395	2,659,269.00

[fol. 708]

Paragraph No. 6
Schedule No. I–(g)
Washington
L. O. Stations

Year	Gallons (000 Omitted)	Value
1938	11,014	$1,277,624.00
1939	11,444	1,304,616.00
1940	12,326	1,294,230.00
1941	14,334	1,519,404.00
1942	11,684	1,250,188.00
1943	10,689	1,175,790.00
1944	10,712	1,221,168.00
1945	12,194	1,353,534.00
1946	15,887	1,842,892.00
1947	15,116	2,040,660.00
1948	16,206	2,495,724.00
1949	18,427	2,926,207.00
1950	21,247	3,337,904.00

[fol. 709]

Paragraph No. 6
Schedule No. II–(a)
All States
3–C Stations

Year	Gallons (000 Omitted)	Value
1938	38,641	$4,160,466.00
1939	34,160	3,663,694.00
1940	31,768	3,128,579.00
1941	29,421	2,945,078.00
1942	19,841	1,962,980.00
1943	13,904	1,424,417.00
1944	6,484	697,351.00
1945	4,563	489,769.00
1946	6,257	707,644.00
1947	11,835	1,516,289.00
1948	17,050	2,497,366.00
1949	19,813	3,045,536.00
1950	20,385	3,069,987.00

[fol. 710]

Paragraph No. 6
Schedule No. II–(b)
Arizona
3–C Stations

Year	Gallons (000 Omitted)	Value
1938	—	—
1939	—	—
1940	—	—
1941	—	—
1942	—	—
1943	—	—
1944	—	—
1945	—	—
1946	322	40,894.00
1947	675	97,875.00
1948	1,036	169,904.00
1949	1,232	209,933.00
1950	1,139	192,263.00

[fol. 711]

Paragraph No. 6
Schedule No. II–(c)
California
3–C Stations

Year	Gallons (000 Omitted)	Value
1938	24,228	$2,519,712.00
1939	20,012	2,081,248.00
1940	17,955	1,705,725.00
1941	15,690	1,506,240.00
1942	10,407	967,851.00
1943	7,207	699,079.00
1944	2,432	250,496.00
1945	1,534	159,536.00
1946	1,684	185,240.00
1947	4,333	537,292.00
1948	8,424	1,187,784.00
1949	10,699	1,572,753.00
1950	10,785	1,528,235.00

[fol. 712]

Paragraph No. 6
Schedule No. II–(d)
Idaho
3–C Stations

Year	Gallons (000 Omitted)	Value
1938	63	$6,111.00
1939	39	5,265.00
1940	49	6,076.00
1941	45	5,175.00
1942	7	924.00
1943	—	—
1944	—	—
1945	—	—
1946	—	—
1947	8	1,248.00
1948	11	1,980.00
1949	6	1,126.00
1950	—	—

[fol. 713]

Paragraph No. 6
Schedule No. II–(e)
Nevada
3–C Stations

Year	Gallons (000 Omitted)	Value
1938	236	$26,904.00
1939	299	35,581.00
1940	261	29,229.00
1941	248	28,272.00
1942	213	24,708.00
1943	171	20,691.00
1944	135	16,470.00
1945	165	20,295.00
1946	29	3,683.00
1947	58	8,410.00
1948	99	16,137.00
1949	144	24,552.00
1950	230	39,146.00

[fol. 714]

Paragraph No. 6
Schedule No. II-(f)
Oregon
3-C Stations

Year	Gallons (000 Omitted)	Value
1938	4,361	$505,876.00
1939	4,260	494,160.00
1940	3,940	421,580.00
1941	3,896	428,560.00
1942	2,578	291,314.00
1943	1,513	177,021.00
1944	737	86,229.00
1945	507	58,812.00
1946	1,207	144,840.00
1947	2,547	338,751.00
1948	2,825	443,525.00
1949	3,110	503,198.00
1950	3,383	548,722.00

[fol. 715]

Paragraph No. 6
Schedule No. II-(g)
Washington
3-C Stations

Year	Gallons (000 Omitted)	Value
1938	9,753	$1,131,348.00
1939	9,550	1,088,700.00
1940	9,562	1,004,010.00
1941	9,541	1,011,346.00
1942	6,636	710,052.00
1943	5,012	551,320.00
1944	3,179	362,406.00
1945	2,356	261,516.00
1946	3,014	349,624.00
1947	4,213	568,755.00
1948	4,656	717,024.00
1949	4,622	733,974.00
1950	4,848	761,621.00

[fol. 716]

Paragraph No. 6
Schedule No. III–(a)
All States
337 Stations

Year	Gallons (000 Omitted)	Value
1938	12,166	$ 1,371,643.00
1939	17,365	1,920,765.00
1940	21,717	2,185,795.00
1941	31,655	3,217,595.00
1942	24,506	2,461,925.00
1943	22,634	2,354,335.00
1944	26,542	2,896,228.00
1945	36,814	4,022,199.00
1946	53,880	6,175,604.00
1947	53,954	7,011,556.00
1948	55,355	8,241,495.00
1949	60,219	9,299,439.00
1950	67,476	10,164,158.00

[fol. 717]

Paragraph No. 6
Schedule No. III–(b)
Arizona
337 Stations

Year	Gallons (000 Omitted)	Value
1938	2,041	$255,125.00
1939	878	100,092.00
1940	997	108,673.00
1941	1,555	174,160.00
1942	1,483	164,613.00
1943	1,166	134,090.00
1944	1,185	145,755.00
1945	1,555	189,710.00
1946	2,447	310,769.00
1947	2,410	349,450.00
1948	2,318	380,152.00
1949	2,688	458,035.00
1950	2,925	493,740.00

[fol. 718]

Paragraph No. 6
Schedule No. III–(c)
California
337 Stations

Year	Gallons (000 Omitted)	Value
1938	4,807	$ 499,928.00
1939	7,136	742,144.00
1940	11,191	1,063,145.00
1941	17,415	1,671,840.00
1942	14,229	1,323,297.00
1943	13,609	1,320,073.00
1944	15,005	1,545,515.00
1945	19,097	1,986,088.00
1946	27,901	3,069,110.00
1947	27,406	3,398,344.00
1948	28,136	3,967,176.00
1949	31,326	4,604,922.00
1950	37,593	5,326,928.00

[fol. 719]

Paragraph No. 6
Schedule No. III–(d)
Idaho

Year	Gallons (000 Omitted)	Value
1938	—	—
1939	199	$ 26,865.00
1940	200	24,800.00
1941	189	21,735.00
1942	324	42,768.00
1943	382	51,570.00
1944	468	63,648.00
1945	752	100,768.00
1946	1,028	143,920.00
1947	942	146,952.00
1948	1,001	180,180.00
1949	1,260	236,502.00
1950	1,481	274,725.00

[fol. 720]

Paragraph No. 6
Schedule No. III–(e)
Nevada
337 Stations

Year	Gallons (000 Omitted)	Value
1938	149	$ 16,986.00
1939	328	39,032.00
1940	244	27,328.00
1941	309	35,226.00
1942	297	34,452.00
1943	198	23,958.00
1944	124	15,128.00
1945	229	28,167.00
1946	367	46,609.00
1947	427	61,915.00
1948	445	72,535.00
1949	474	80,817.00
1950	643	109,438.00

[fol. 721]

Paragraph No. 6
Schedule No. III–(f)
Oregon
337 Stations

Year	Gallons (000 Omitted)	Value
1938	1,670	$ 193,720.00
1939	3,348	388,368.00
1940	3,962	423,934.00
1941	5,703	627,330.00
1942	3,714	419,682.00
1943	3,422	400,374.00
1944	4,514	528,138.00
1945	6,475	751,100.00
1946	9,326	1,119,120.00
1947	9,460	1,258,180.00
1948	9,794	1,537,658.00
1949	11,056	1,788,861.00
1950	11,354	1,841,619.00

[fol. 722]

Paragraph No. 6
Schedule No. III-(g)
Washington
337 Stations

Year	Gallons (000 Omitted)	Value
1938	3,499	$ 405,884.00
1939	5,476	624,264.00
1940	5,123	537,915.00
1941	6,484	687,304.00
1942	4,459	477,113.00
1943	3,857	424,270.00
1944	5,246	598,044.00
1945	8,706	966,366.00
1946	12,811	1,486,076.00
1947	13,309	1,796,715.00
1948	13,661	2,103,794.00
1949	13,415	2,130,302.00
1950	13,480	2,117,708.00

[fol. 723] Subpoena Duces Tecum

Paragraph No. 7

The original records, or a compilation prepared therefrom, showing for each year from 1938 to 1950, inclusive, the total gallonage of motor oils and greases and the dollar value thereof, separately stated by states, sold or delivered for resale by Richfield to each of the classifications of stations subject to the respective agreements, contracts, leases, or subleases referred to in paragraphs 2, 3, and 4 above, and as to any other classification of retail outlets handling Richfield brands of gasoline.

For response thereto defendant submits a compilation as follows:

Schedule No.	I	All States
Schedule No.	II	Arizona
Schedule No.	III	California
Schedule No.	IV	Idaho
Schedule No.	V	Nevada
Schedule No.	VI	Oregon
Schedule No.	VII	Washington

Note: Defendant does not maintain records reflecting a segregation as to classifications of stations. Accordingly, the above compilation includes sales and deliveries to the three types of retail service station outlets which are the three types of outlets which the defendant refers to as L. O.'s, 2-B's, or 3-C's and the 337 or Dealer type.

[fol. 724]

Paragraph No. 7
Schedule No. I
All States

Year	Gallons	Value
1938	2,647,424	$1,098,971.68
1939	2,858,290	1,239,597.29
1940	3,010,117	1,350,194.56
1941	3,273,003	1,493,320.07
1942	2,114,341	929,606.19
1943	1,751,520	904,730.99
1944	2,021,113	1,104,199.09
1945	2,916,740	1,599,356.22
1946	3,056,353	1,669,451.38
1947	3,241,263	2,022,255.58
1948	3,173,161	2,135,331.49
1949	3,290,870	2,397,278.45
1950	3,491,369	2,546,127.59

[fol. 725]

Paragraph No. 7
Schedule No. II
Arizona

Year	Gallons	Value
1938	117,995	$ 62,341.34
1939	109,731	59,653.11
1940	141,420	77,384.90
1941	151,255	84,128.51
1942	136,807	72,763.92
1943	118,635	68,408.72
1944	127,056	75,273.69
1945	184,259	116,154.82
1946	199,264	119,754.10
1947	198,850	132,170.44
1948	193,891	143,022.10
1949	192,182	148,339.76
1950	197,090	153,988.37

[fol. 726]

Paragraph No. 7
Schedule No. III
California

Year	Gallons	Value
1938	1,727,575	$ 684,599.23
1939	1,902,411	783,283.40
1940	2,002,001	854,001.08
1941	2,145,365	922,936.44
1942	1,358,501	533,357.49
1943	1,036,299	523,853.31
1944	1,284,887	688,907.21
1945	1,882,834	1,015,305.98
1946	1,957,782	1,045,740.88
1947	2,078,704	1,262,216.42
1948	1,965,501	1,250,642.27
1949	2,047,793	1,448,056.49
1950	2,221,787	1,561,003.72

[fol. 727]

Paragraph No. 7
Schedule No. IV
Idaho

Year	Gallons	Value
1938	3,237	$ 1,107.00
1939	26,926	11,356.72
1940	41,441	19,099.27
1941	42,089	18,939.79
1942	30,045	16,150.29
1943	28,320	15,824.39
1944	29,331	16,830.50
1945	41,015	23,774.25
1946	45,158	27,497.51
1947	51,990	36,305.92
1948	48,557	38,223.64
1949	49,117	40,271.44
1950	49,279	41,217.85

[fol. 728]

Paragraph No. 7
Schedule No. V
Nevada

Year	Gallons	Value
1938	20,898	$10,820.62
1939	28,395	17,356.51
1940	33,900	18,026.38
1941	40,034	21,927.14
1942	30,101	17,187.69
1943	28,600	15,577.16
1944	28,592	17,100.17
1945	48,638	28,215.14
1946	53,877	31,957.35
1947	53,781	37,907.80
1948	42,494	32,882.18
1949	47,593	39,253.70
1950	49,058	41,515.38

[fol. 729]

Paragraph No. 7
Schedule No. VI
Oregon

Year	Gallons	Value
1938	234,226	$104,361.55
1939	284,086	134,432.56
1940	278,072	136,081.88
1941	323,990	166,511.78
1942	202,993	107,413.94
1943	186,671	100,789.65
1944	217,053	120,727.71
1945	303,221	167,340.89
1946	298,952	169,728.27
1947	314,033	204,935.98
1948	352,224	256,753.81
1949	389,894	294,564.65
1950	403,509	310,928.35

[fol. 730]

Paragraph No. 7
Schedule No. VII
Washington

Year	Gallons	Value
1938	543,493	$235,741.96
1939	506,691	233,514.99
1940	513,283	245,601.05
1941	570,270	278,876.41
1942	355,894	182,732.86
1943	532,995	180,277.76
1944	334,194	185,359.81
1945	456,775	248,565.14
1946	501,320	274,773.27
1947	543,905	348,719.02
1948	570,494	413,807.49
1949	564,291	426,792.41
1950	570,646	437,473.92

[fol. 731] **Subpoena Duces Tecum**

Paragraph No. 9

The original records, or a compilation prepared therefrom, showing for the period January 1, 1938 to the date of the service of this subpoena, the name of each manufacturer or supplier, place of manufacture, and brand name of each item of automotive accessories selected, authorized, or recommended for handling or sale at retail service station outlets, handling or selling Richfield petroleum products.

For response thereto defendant submits a compilation as follows:

See Schedule I attached.

[fol. 732]

Paragraph No. 9

Schedule I

Name of Company	Place of Manufacture	Brand Name
General Tire & Rubber Company	Akron, Ohio	Bulldog & Yale tires
Goodyear Tire & Rubber Company	Akron, Ohio	Passenger Tires Goodyear All-Weather G–3 Deluxe Marathon All American Speedway Pathfinder Corsair Double Eagle Wingfoot R–1 Truck Tires Hi Miler Hi Miler Extra Tread Hard Rock Rib Hard Rock Lug Road Lug Pathfinder All Weather Stop—Start Earth Mover Sure Grip Sure Grip Studded Sure Grip Marathon All Service Rib All-Weather Trailer Earth Mover All Weather Farm Tractor and Implement Tires Tubes Deluxe Heavy Duty Red Heavy Duty Black Puncture Sealing Life Guard
Goodyear Tire & Rubber Company	Unknown	Batteries Goodyear Economy Goodyear All Weather

[fol. 733]

Goodyear Tire & Rubber Company	Unknown	Various accessory items as found in Car & Home catalogs.
Colyear Motor Sales Co.	Unknown	Miscellaneous accessory lines.
Sillers Paint & Varnish Co.	Los Angeles, Calif.	Flexoid
Willard Battery Company	Los Angeles, Calif. Portland, Oregon Cleveland, Ohio Others unknown	Willard Batteries
Champion Spark Plug Co.	Toledo, Ohio	Champion Spark Plugs and accessory parts
Mac's Super Gloss Co.	Los Angeles, Calif.	Various Mac's Cleaners & Polishes

Schedule I—(cont'd.)

Name of Company	Place of Manufacture	Brand Name
Goodyear Tire & Rubber Company	Unknown	Batteries (cont'd.)
		Goodyear YKL
		Resolute
		Radiator Seal
		Rubber Dressing
Warner-Patterson Company	Chicago, Illinois	Warner's Liquid Solder
		Warner's Radiator Protector, Cleaner and Service Cleaner
Rust Master Chemical Co.	Boston, Mass.	Rust Master
		Leak Master
Purolator Products, Inc.	Newark, New Jersey	Purolator Oil
	Rahway, New Jersey	Filters and Oil Lines
A. Schrader's Son	Brooklyn, New York	Schrader Valve Hardware
Dill Mfg. Company	Cleveland, Ohio	Dill Standard Tire Valves and Valve Parts
Stant Mfg. Company	Connersville, Ind.	Stant Caps & Mirrors
Shur Gloss Mfg. Co.	Chicago, Illinois	Shur Wonder Wash (Car Wash)
Armstrong Engineering Corp.	Los Angeles, Calif.	Victor Tire Life Patches
[fol. 734]		
Shields-Harper (Mfg. Rep.)	Memphis, Tenn.	Lube Equipment, etc.
	Toledo, Ohio	Rotary
	Cincinnati, Ohio	DeVilbiss
	Minneapolis, Minn.	Belcrank
		Franklin Transformers
Solar Corporation	Milwaukee, Wis.	Richlite Batteries
Las-Stik Mfg. Company	Hamilton, Ohio	Las-Stik Polishing Cloths and tire repair materials
Monarch Governor Co.	Detroit, Michigan	Monarch Mirrors
Anderson Company	Gary, Indiana	Anco (Windshield wipers and Replacement Motors)
Lisle Corporation	Clarinda, Iowa	Lisle Magnetic Drain Plugs
Allube Corporation	Glendale, Calif.	Allube Brake Fluid and Chemical Products
Service Sales Co.	Dallas, Texas	Diametric Rapidrane
Tung-Sol Lamp Works, Inc.	Los Angeles, Calif.	Tung-Sol Miniature Lamps and Seal Beam Units
E. I. duPont de Nemours and Company	Wilmington, Delaware	Dupont Polishes & Chemicals
Southern Supply Co.	Pasadena, Calif.	Chem-Cream & Gun
Monroe Auto Equipment Co.	Monroe, Michigan	Monroe Shock Absorbers
Littlefuse, Inc.	Chicago, Illinois	Littlefuse Car Fuses
Defiance Mfg. Co.	Hollywood, Calif.	Defiance Keyless Locking Gas Caps
Dapco, Inc.	Chicago, Ill.	Dapco Auto Seat Covers
Ethyl Specialties Corp.	New York	Ethyl Cleaner
Blake Moffitt & Towne	Unknown	Driwell Towels
		Harcraft Roll Towels
		Conseco Toilet Seat Covers
		Proco Toilet Seat Covers
		Boraxo
		Luron
		Castilian Toilet Tissue
Resistoflex Corp.	Belleville, New Jersey	Resistoflex Gas & Oil Lines
Gray Co.	Minneapolis, Minn.	Graco Lubricating Equipment
Protecto Products, Inc.	Pomona, Calif.	"Economy" Toilet Seat Covers

[fol. 735]

Schedule I—(cont'd.)

Name of Company	Place of Manufacture	Brand Name
Aves Electric Co.	Beverly Hills, Calif.	Curb-L-Arms Curb Whiskers
Gross Mfg. Co.	Monrovia, Calif.	Gross Tire & Tube Repair Materials and Water Bags
Drake Equipment & Sales Co.	Los Angeles, Calif.	Fillcoolator
Lincoln Engineering Co.	St. Louis, Mo. and Los Angeles, Calif.	Lincoln Lubricating Equipment
E-Z Fill Radiator Cap Co.	Venice, Calif.	E-Z Fill Radiator Caps
Peters & Russel, Inc.	Springfield, Ohio	Lo Par Exhaust Deflectors
Yankee Metal Products Co.	Norwalk, Conn.	Yankee Automotive Safety Devices
Guaranteed Parts Co., Inc.	Seneca Falls, N. Y.	Guaranteed Ignition Service Parts
Sandee Mfg. Co.	Chicago, Ill.	Feather-Lite Garden Hose
H. Wenzel Tent & Duck Co.	St. Louis, Mo.	Water Boy Water Bags
S & M Lamp Co.	Los Angeles, Calif.	S & M Auto Lamps
Metalizing Company of America	Los Angeles, Calif.	Moguloid Block Sealer
Airtex Automotive Division of Chefford Master Mfg. Co.	Fairfield, Illinois	Airtex Fuel Pumps
Wilco Co.	Los Angeles, Calif.	Wilco & Cleares Windshield Cleaners
Fox Products Co.	Philadelphia, Pa.	Fox Battery Chargers
Conners, Inc.	Los Angeles, Calif.	Conners Seat Covers Fitrite Seat Covers
National Carbon Division of Union Carbide & Carbon Corp.	Unknown	Eveready Miniature Lamps & Seal Beam Units Eveready Flashlights & Batteries
	Texas City, Texas	Prestone & Trek Anti-freeze

[fol. 736]

R. M. Hollingshead Corp.	Camden, New Jersey	Whiz Products
L & M Sales Corp.	Downey, Calif.	Shamrock Seat Covers Auto Craft Seat Covers
Ray Cooper	Alhambra, Calif.	Silver Trumpet Tail Pipe Extensions
Wagner Electric Company	St. Louis, Mo.	Wagner-Lockheed Brake Fluid
C. J. Hendry Co.	San Diego and San Francisco, Calif.	Henco Trouble Light
Mid-Western Auto Parts	Kokomo, Indiana and Whittier, Calif.	Snugl Wheel Balance Weights
Kaydon Mfg. Co.	Santa Monica, Calif.	Tru-Bal Wheel Balancers
Choldun Mfg. Co.	New Haven, Conn.	Choldun Oil Changers
American Grease Stick Co.	Muskegon, Michigan	Ru Glyde & other specialized lubricants
Cadie Chemical Products, Inc.	New York, N. Y.	Cadie Polishing Cloths
Buddy Seat Cover Co.	Los Angeles, Calif.	Buddy Seat Covers
L. M. W. Corp.	San Gabriel, Calif.	Penguin Car Coolers
Grover Products Co.	Los Angeles, Calif.	Grover Air Horns
Acme Rubber Products Co.	Trenton, New Jersey	Acme Automotive Hose Acme Garden Hose
Burd Piston Ring Co.	Rockford, Ill.	Hadees Automotive Hot Water Heaters
Campbell Chain Co.	York, Pennsylvania	Sno-King Tire Chains
Sunware Products, Inc.	New York, N. Y.	Sunware Sun Glasses
Better Monkey Grip Co.	Dallas, Texas	Monkey Grip Tire & Tube Repair Materials

Schedule I—(cont'd.)

Name of Company	Place of Manufacture	Brand Name
Sparton Automotive Division of Sparks-Whithington Co.	Jackson, Mich.	Sparton Automotive Safety Equipment
O-Cel-O, Inc.	Buffalo, New York	O-Cel-O Cellulose Sponges
E. Edelmann & Co.	Chicago, Ill.	Edelmann Oil & Gas Lines
McColpin-Christie Corp.	Los Angeles, Calif.	C & C QX Chargalyzer
[fol. 737]		
Wells Mfg. Co.	Fond du Lac, Wisc.	Wells Ignition Service Parts
Nassau Sponge Co.	Chicago, Ill.	Clix Chamois
Acme Air Appliance Co.	Brooklyn, New York	Acme Air Appliances (Valve Hardware)
Auto Specialties Mfg. Co.	St. Joseph, Michigan	Ausco Jacks
Bergman Tool Mfg. Co.	Buffalo, New York	Blue Bird Tools
Chrisholm Industries	Lynn, Mass.	C & B Fast Oil Changer
Associated Equipment Corp.	St. Louis, Mo.	Hartman Battery Chargers
The Valentine Co.	Seattle, Washington	Valco Car Wash
Duro Metal Products Co.	Chicago, Ill.	Duro Automatic Transmission Tools
Lyons Products Co.	Los Angeles, Calif.	Flying Rocket Tail Pipe Extensions
Industrial Machine & Tool Co.	Des Moines, Iowa	Presto Tire Chains
Del N. Larson Co.	San Francisco	Plastic Windshield Cleaner Containers
International Battery Co.	Unknown	Richlite Batteries
Petroleum Products Corp.	Unknown	Silco & Lucite Motor Oil Additives

[fol. 738] Subpoena Duces Tecum

Paragraph No. 11

The original records, or a compilation prepared therefrom, showing the total dollar volume of (1) tires and tubes, (2) batteries, and/or (3) other automotive accessories, separately stated, purchased by Richfield annually from 1938 to 1950, inclusive, from any manufacturer, producer, distributor, or seller, for resale, consignment, or distribution, to retail service station outlets handling or selling Richfield petroleum products, or to TBA distributors who supply said service station outlets.

For response thereto defendant submits a compilation as follows:

Year	(1) Tires and Tubes	(2) Batteries	(3) Other Automotive Accessories
1938	$ 126,070.22	$ 598.55	$ —
1939	178,668.03	12,685.49	—
1940	276,570.64	42,799.02	—
1941	422,875.28	92,979.55	—
1942	58,526.02	76,068.69	—
1943	237,180.69	234,327.82	—
1944	550,433.98	481,243.92	109,087.37
1945	1,107,581.65	356,279.63	328,038.72
1946	1,576,829.81	411,684.00	561,487.06
1947	1,877,936.65	619,074.18	484,038.20
1948	1,860,937.74	548,918.23	604,712.51
1949	2,095,582.12	495,987.24	789,802.06
1950	2,646,400.07	482,040.37	956,412.96

Note: Except in a few instances (involving less than 3 per cent of the total volume of tires, tubes, batteries, and other automotive accessories sold), Richfield has not sold tires, tubes, batteries, or other automotive accessories directly to the operators or dealers of service stations, with whom Richfield has written agreements of the type represented by Government Exhibits 1, 1a to 1g, inclusive; 2; 3, [fol. 739] 3a to 3d, inclusive; 4, 4a to 4d, inclusive; 5, 5a to 5i, inclusive.

Also, TBA distributors do not sell their entire purchases of tires, tubes, batteries, or other automotive accessories to retail service station outlets handling or selling Richfield petroleum products. TBA distributors have advised Richfield that in their opinion in excess of 30 per cent of their sales of tires, tubes, batteries, or other automotive accessories are made to service stations not handling Richfield petroleum products.

[fol. 740] Subpoena Duces Tecum

Paragraph No. 12

The original records, or a compilation prepared therefrom, showing for each of the years 1938 to 1950, inclusive, the total annual dollar volume of automotive accessories purchased by Richfield for resale or distribution to retail service station outlets handling or selling Richfield pe-

troleum products, or to TBA distributors supplying said outlets, from each manufacturer, producer, distributor, or dealer selling in excess of $3,000 of said automotive accessories during the period from January 1, 1938 to December 31, 1950, such compilation to include the name of said manufacturer, producer, distributor, or dealer, the items of automotive accessories purchased, the total annual dollar volume of purchases from each, the place or places of manufacture of each, and the point of shipment to Richfield or to others for its account, of said accessories purchased from said manufacturers or producers.

For response thereto defendant submits a compilation as follows:

See Schedules numbers I thru XLII attached.

[fol. 741] Paragraph No. 12

Schedule No. I

Supplier: Acme Rubber Company
Address: Trenton, New Jersey
Accessories: Automotive Hose

Dollar Volume:

1950 $6,264.28

[fol. 742] Paragraph No. 12

Schedule No. II

Supplier: Airtex Automotive Division
Cheffor Master Mfg. Co.
Address: Fairfield, Ill.
Accessories: Fuel Pumps

Dollar Volume:

1950 $4,670.16

[fol. 743] Paragraph No. 12

Schedule No. III

Supplier: Allube Corporation
Address: 928 Allen Ave., Glendale, California
Accessories: Brake Fluid, Auto Soap and Hand Cleaner

Dollar Volume:

1946	$ 447.73
1947	4,385.31
1948	12,919.63
1949	9,254.29
1950	4,308.17

[fol. 744] Paragraph No. 12

Schedule No. IV

Supplier: The Anderson Company
Address: Gary, Indiana
Accessories: Wiper Arms and Blades

Dollar Volume:

1946	$25,255.82
1947	14,204.53
1948	19,893.03
1949	26,553.94
1950	34,306.88

[fol. 745] Paragraph No. 12

Schedule No. V

Supplier: Auto Craft Company
Address: 8267 E. Phlox, Downey, Calif.
Accessories: Seat Covers

Dollar Volume:

1949	$3,573.31
1950	-------

[fol. 746] Paragraph No. 12

Schedule No. VI

Supplier: Brake Equipment Sales Co.
Address: 1527 W. Manchester Blvd., Los Angeles, California
Accessories: Wheel Balance Weights and Shims

Dollar Volume:

1947	$1,336.58
1948	4,391.63
1949	------
1950	------

[fol. 747] Paragraph No. 12

Schedule No. VII

Supplier: Campbell Chain Company
Address: York, Pa.
Accessories: Auto Chains

Dollar Volume:

1950	$35,581.36

[fol. 748] Paragraph No. 12

Schedule No. VIII

Supplier: Champion Spark Plug Co.
Address: Toledo, Ohio.
Accessories: Spark Plugs

Dollar Volume:

1944	$ 58,244.46
1945	167,294.50
1946	211,216.05
1947	182,783.58
1948	151,565.28
1949	223,703.06
1950	208,870.50

[fol. 749] Paragraph No. 12

Schedule No. IX

Supplier:
Address:
Accessories:

Dollar Volume:

(This schedule not used.)

[fol. 750] Paragraph No. 12

Schedule No. X

Supplier: Dapco, Inc.
Address: 705 Washington Blvd., Chicago, Illinois
Accessories: Seat Covers

Dollar Volume:

1947	$8,788.80
1948	929.89
1949	------
1950	------

[fol. 751] Paragraph No. 12

Schedule No. XI

Supplier: E. I. duPont de Nemours & Co.
Address: 235 Second St., San Francisco, California
Accessories: No. 7 Line—Principally Radiator Compounds

Dollar Volume:

1946	$ 3,953.24
1947	10,057.95
1948	7,840.98
1949	3,354.55
1950	------

[fol. 752] Paragraph No. 12

Schedule No. XII

Supplier: E. & L. Distributing Co.
Address: 1978 So. Los Angeles St., Los Angeles, Calif.
Accessories: Air Conditioners

Dollar Volume:

1946	$2,267.75
1947	820.91
1948	72.80
1949	------
1950	------

[fol. 753] Paragraph No. 12

Schedule No. XIII

Supplier: Defiance Mfg. Co.
Address: 430 Markham Bldg., Hollywood, Calif.
Accessories: Gasoline Tank Caps

Dollar Volume:

1947	$2,266.13
1948	1,368.51
1949	------
1950	------

[fol. 754] Paragraph No. 12

Schedule No. XIV

Supplier: Ethyl Specialties Corp.
Address: 21 West St., New York, N. Y.
Accessories: Ethyl Cleaner

Dollar Volume:

1947	$5,097.63
1948	144.00
1949	------
1950	------

[fol. 755] **Paragraph No. 12**

Schedule No. XV

Supplier: General Tire & Rubber Co.
Address: 1100 South Santa Fe Ave., Los Angeles, Calif.
San Francisco, California—Portland, Oregon.
Accessories: Tires and Tubes

Dollar Volume:

1938	$126,070.22
1939	37,749.05
1940	------
1941	------
1942	------
1943	------
1944	------
1945	------
1946	------
1947	------
1948	------
1949	------
1950	------

[fol. 756] Paragraph No. 12

Schedule No. XVI

Supplier: Goodyear Tire & Rubber Co.
Address: 6701 So. Central Ave., Los Angeles, Calif.
San Francisco, California—Sacramento, Calif.
Phoenix, Ariz.—Portland, Oregon
Spokane, Washington—Seattle, Washington
Accessories: Tires, Tubes, Batteries, and Schrader & Dill Air Valves and Gauges

Dollar Volume:

1939	$ 235,876.13
1940	247,503.35
1941	381,716.02
1942	90,175.15
1943	397,728.46
1944	977,141.88
1945	1,339,910.18
1946	1,840,522.59
1947	2,450,961.77
1948	2,631,441.94
1949	2,802,788.70
1950	3,323,948.21

[fol. 757] Paragraph No. 12

Schedule No. XVII

Supplier: Gross Mfg. Co.
Address: P. O. Box 59, Monrovia, Calif.
Accessories: Tire & Tube Repair Material

Dollar Volume:

1947	$ 2,092.47
1948	14,291.62
1949	17,224.56
1950	18,459.33

[fol. 758] Paragraph No. 12

Schedule No. XVIII

Supplier: Guaranteed Parts Co., Inc.
Address: Seneca Falls, N. Y.—Los Angeles, Calif.
San Francisco, Calif.—Seattle, Wash.
Accessories: Ignition Parts

Dollar Volume:

1948	$13,999.36
1949	10,048.16
1950	10,394,66

[fol. 759] Paragraph No. 12

Schedule No. XIX

Supplier: R. M. Hollingshead Corp.
Address: Camden, N. J.
Accessories: Brake Fluid, "Whiz" Products.

Dollar Volume:

1949	$ 4,399.80
1950	10,307.07

[fol. 760] Paragraph No. 12

Schedule No. XX

Supplier: International Battery Co.
Address: 626 W. 15th St., Los Angeles, Calif.
Accessories: Batteries

Dollar Volume:

1947	$ 473.82
1948	28,377.81
1949	------
1950	------

[fol. 761] Paragraph No. 12

Schedule No. XXI

Suppplier:
Address:
Accessories:

Dollar Volume:

(This schedule not used.)

[fol. 762] Paragraph No. 12

Schedule No. XXII

Supplier: Lainide Corp.
Address: 7601 Melrose Ave., Los Angeles, Calif.
Accessories: Battery Cables

Dollar Volume:

1943	$3,616.00
1944	.....
1945	.....
1946	.....
1947	.....
1948	.....
1949	.....
1950	.....

[fol. 763] Paragraph No. 12

Schedule No. XXIII

Supplier: The Las-Stik Mfg. Co.
Address: 157 N. "B" St., Hamilton, Ohio
Accessories: Tire Repair & Polishing Supplies

Dollar Volume:

1946	$ 3,554.58
1947	3,604.49
1948	3,230.26
1949	3,290.70
1950	4,127.53

[fol. 764] Paragraph No. 12

Schedule No. XXIV

Supplier: Lisle Corp.
Address: Clarinda, Iowa
Accessories: Magnetic Plugs

Dollar Volume:

1946	$7,555.71
1947	1,215.26
1948	63.15
1949	------
1950	------

[fol. 765] Paragraph No. 12

Schedule No. XXV

Supplier: Little Fuse, Inc.
Address: 4757 Ravenswood Ave., Chicago, Ill.
Accessories: Fuses & Parts

Dollar Volume:

1947	$3,263.66
1948	2,782.14
1949	------
1950	------

[fol. 766] Paragraph No. 12

Schedule No. XXVI

Supplier: Mac's Super Gloss
Address: P. O. Box 98, Los Angeles 42, Calif.
Accessories: Polish

Dollar Volume:

1944	$10,193.75
1945	25,317.54
1946	32,600.89
1947	15,558.38
1948	30,726.85
1949	41,445.38
1950	59,582.06

[fol. 767] Paragraph No. 12

Schedule No. XXVII

Supplier: Monarch Governor Co.
Address: 1832 Bethune Ave., Detroit, Michigan
Accessories: Rearview Mirrors

Dollar Volume:

1946	$9,712.90
1947	8,543.23
1948	557.17
1949	———
1950	———

[fol. 768] Paragraph No. 12

Schedule No. XXVIII

Supplier: National Carbon Co.
Address: 22 Battery St., San Francisco, Calif.
Accessories: Auto Lamps—Anti-Freeze.

Dollar Volume:

1949	$ 60,243.89
1950	228,436.99

[fol. 769] Paragraph No. 12

Schedule No. XXIX

Supplier: O-Cel-O Corp.
Address: 1200 Niagara St., Buffalo 13, N. Y.
Accessories: Sponges

Dollar Volume:

1949	$4,203.46
1950	———

[fol. 770] Paragraph No. 12

Schedule No. XXX

Supplier: Petroleum Solvents Corp.
Address: 331 Madison Ave., New York, N. Y.
Accessories: Radiator Chemicals

Dollar Volume:

1949	$3,175.98
1950	-------

[fol. 771] Paragraph No. 12

Schedule No. XXXI

Supplier: Purolator Products, Inc.
Address: Empire St., Newark, New Jersey
Accessories: Oil Filters and Parts

Dollar Volume:

1944	$ 6,230.99
1945	24,422.83
1946	56,071.85
1947	45,965.63
1948	45,209.23
1949	60,224.43
1950	79,197.73

[fol. 772] Paragraph No. 12

Schedule No. XXXII

Supplier: Ralphs-Pugh Co.
Address: 530 Howard St., San Francisco, Calif.
Accessories: Garden Hose

Dollar Volume:

1950	$6,256.47

[fol. 773] Paragraph No. 12

Schedule No. XXXIII

Supplier: Rust Master Chemical Co.
Address: 712 Beacon St., Boston, Mass.
Accessories: Radiator Compounds

Dollar Volume:

1944	$ 3,166.98
1945	9,896.03
1946	11,822.18
1947	4,024.54
1948	2,213.45
1949	-------
1950	-------

[fol. 774] Paragraph No. 12

Schedule No. XXXIV

Supplier: Sandee Mfg. Co.
Address: 5050 Foster Ave., Chicago, Ill.
Accessories: Plastic Hose

Dollar Volume:

1948	$10,216.93
1949	7,207.35
1950	-------

[fol. 775] Paragraph No. 12

Schedule No. XXXV

Supplier: Shur Gloss Mfg. Co.
Address: 3555 W. Grand Ave., Chicago, Ill.
Accessories: Washing Compound

Dollar Volume:

1944	$ 1,162.59
1945	4,137.19
1946	12,935.95
1947	7,603.84
1948	6,872.17
1949	8,506.98
1950	11,475.33

[fol. 776] Paragraph No. 12

Schedule No. XXXVI

Supplier: Solar Corporation
Address: 944 Bruce St., Milwaukee, Wis.
Accessories: Batteries

Dollar Volume:

1946	$15,091.02
1947	8,088.36
1948	-------
1949	-------
1950	-------

[fol. 777] Paragraph No. 12

Schedule No. XXXVII

Supplier: Stant Mfg. Co.
Address: Connersville, Indiana
Accessories: Gasoline Tank Caps

Dollar Volume:

1944	$ 1,072.84
1945	17,114.47
1946	14,122.56
1947	12,124.38
1948	5,958.46
1949	12,473.97
1950	5,642.86

[fol. 778] Paragraph No. 12

Schedule No. XXXVIII

Supplier: Tung-Sol Lamp Works, Inc.
Address: 1816 So. Flower St., Los Angeles, Calif.
Accessories: Lighting Equipment

Dollar Volume:

1946	$ 1,657.02
1947	9,148.65
1948	12,925.70
1949	8,954.40
1950	3,528.48

[fol. 779] Paragraph No. 12

Schedule No. XXXIX

Supplier: Wagner Electric Corp.
Address: 6400 Plymouth Ave., St. Louis 14, Mo.
Accessories: Brake Fluid

Dollar Volume:

1950	$11,007.86

[fol. 780] Paragraph No. 12

Schedule No. XL

Supplier: Warner-Patterson Co.
Address: 920 So. Michigan Ave., Chicago, Ill.
Los Angeles, Calif.
Accessories: Radiator Compounds

Dollar Volume:

1944	$ 3,007.03
1945	8,464.69
1946	19,671.95
1947	10,525.75
1948	13,396.12
1949	15,257.54
1950	9,053.31

[fol. 781] Paragraph No. 12

Schedule No. XLI

Supplier: Wenzel Tent & Duck Co.
Address: 1035 St. Paul St., St. Louis, Mo.
Accessories: Water Bags

Dollar Volume:

1948	$3,034.35
1949	------
1950	------

[fol. 782] Paragraph No. 12

Schedule No. XLII

Supplier: Willard Battery Company
Address: P. O. Box 6850 E. L. A. Branch, Los Angeles, Calif.
Accessories: Batteries

Dollar Volume:

1944	$53,293.79
1945	60,113.75
1946	74,422.98
1947	59,454.89
1948	18,017.93
1949	6,964.13
1950	6,400.08

[fol. 783] Subpoena Duces Tecum

Paragraph No. 13

The original records, or a compilation prepared therefrom, showing the total annual dollar volume, by states, of (1) tires and tubes, (2) batteries, and (3) other automotive accessories, sold by Richfield from 1938 to and including the year 1950, to retail service station outlets handling or selling Richfield petroleum products under any of the forms of agreements reported in response to paragraph 1 above, such compilation to include the name and address of each service station to whom such sales have been made for each year 1944 to 1950, inclusive.

For response thereto defendant submits a compilation as follows:

Schedule No. I Annual Dollar Volume
Schedule No. II Dealer Names and Addresses

The compilations submitted in Schedules I and II show the sales made by defendant to retail service station outlets handling or selling Richfield petroleum products under any of the forms of agreement of the type represented by Government Exhibits 1, 1a to g, inclusive; Government Exhibit

2; Government Exhibits 3, 3a to d, inclusive; Government Exhibits 4, 4a to d, inclusive; and Government Exhibits 5, 5a to i, inclusive.

[fol. 784]

Paragraph No. 13

Schedule No. I

Year	(1) Tires and Tubes	(2) Batteries	(3) Other Accessories
1938	$183,310.00	$ —	—
1939	208,825.00	37,855.00	—
1940	247,752.00	54,546.00	—
1941	419,356.00	85,187.00	—
1942	57,453.00	66,961.00	—
1943	310,033.00	198,737.00	—
1944	47,351.00	24,026.00	—
1945	38,477.00	7,792.00	—
1946	53,261.00	8,340.00	—
1947	63,780.00	11,828.00	—
1948	67,201.00	13,250.00	—
1949	124,142.58	16,414.73	—
1950	167,946.41	17,323.36	—

Note: Defendant does not maintain records reflecting this information by states.

[fol. 785]

Paragraph No. 13

Schedule No. II

Name	Address	City and State
M. K. Wadley	2390 Pacific Hiway	Medford, Oregon
A. C. Payne	2198-6th Street West	Eugene, Oregon
Ted Kelt	411 South 6th Street	Grants Pass, Oregon
Kenneth Kohl	1406 1st Avenue South	Seattle, Washington
Ed. S. Melsom	2100 Airport Way	Seattle, Washington
E. V. Olsen	University, Alaskan and Western	Seattle, Washington
James W. Heaslet	607 Lake Street	Colfax, Washington
Enoch E. Smith	516 North Maine Street	Colfax, Washington
R. I. Mitchell R. L. Mitchell	at Malaga	Fresno, California
C. A. Stoffer	8255 San Leandro Street	Oakland, California
Johnson, Brake & Johnson	P. O. Box 1037	Redding, California
Roderick B. Cave	P. O. Box 888	Salinas, California
F. Robert Lasley	Bayshore Hiway & Alviso Road	Sunnyvale, California
Willits Motor Co.	Main and State Streets	Willits, California
Jack's Tire Service	2002 East Florence	Bell Gardens, California
Geo. Ricca	1st & Beale Streets	Kingman, Arizona
B. F. Massey	401 North Rodeo Drive	Beverly Hills, Calif.
Cline Motor Co.	201 South Montezuma	Prescott, Arizona
Clarence Shaw		Salome, Arizona
Capitol Tire & Battery Co.	1901 West Jefferson	Los Angeles, California
Harry Viner	3600 Avalon Boulevard	Los Angeles, California
Donald De Silva	5th & Madison Streets	Phoenix, Arizona
Jesse V. Sullivan	Hobson & Carlton	Blythe, California

[fol. 786]

Home Tire & Auto Supply	4176 Market Street	Riverside, California
Horace E. Holbrook	322 North Imperial	Imperial, California
Bonner-Stromer	8500 Van Nuys Boulevard	Van Nuys, California
Lambertucci Bros.		Tonopah, Nevada
Snyder-Lynche	711 S. San Fernando Road	Burbank, California
Elwin Fain	Court & Grande Streets	Nogales, Arizona
Truck & Motor Fuel Dist.	101 S. Paramount Boulevard	Paramount, California (Hynes)
E. H. Wulfers	5th & Madison	Phoenix, Arizona
Jesse Cuppari	1101 West 1st Street	Los Angeles, California
O. M. Clark	U. S. Hiway 99 South	Redding, California
Hampton-Adams	2390 Pacific Hiway	Medford, Oregon
Geo. Miller	2100 Airport Way	Seattle, Washington
D. O. Holleyman	8255 San Leandro	Oakland, California

Note: Defendant's records are sufficient to provide dealers names and addresses only for the years 1949 and 1950.

[fol. 787] Subpoena Duces Tecum

Paragraph No. 14

The original records, or a compilation prepared therefrom, showing the total annual dollar volume of (1) tires and tubes, (2) batteries, and (3) other automotive accessories sold by Richfield from 1938 to 1950, inclusive, to Richfield TBA distributors who distribute and sell such products to retail service station outlets handling or selling Richfield petroleum products.

For response thereto defendant submits a compilation as follows:

Year	(1) Tires and Tubes	(2) Batteries	(3) Other Accessories
1938	$ —	$ —	$ —
1939	—	—	—
1940	—	—	—
1941	—	—	—
1942	—	—	—
1943	—	—	—
1944	822,067.31	392,177.19	5,236.88
1945	1,282,575.53	389,630.11	219,919.76
1946	1,775,375.43	417,015.34	703,166.46
1947	2,126,028.83	591,416.01	702,556.16
1948	2,029,919.97	660,295.81	670,302.22
1949	2,154,965.17	572,874.79	877,066.43
1950	2,675,135.74	554,778.74	1,048,209.06

Note: Richfield TBA distributors do not sell their entire purchases from Richfield of tires, tubes, batteries, or other automotive accessories to retail service station outlets handling or selling Richfield petroleum products. TBA distributors have advised Richfield that in their opinion in excess of 30 per cent of their sales of tires, tubes, batteries, or other accessories are made to service stations not handling Richfield petroleum products.

[fol. 788] Subpoena Duces Tecum

Paragraph No. 15

The original records, or a compilation prepared therefrom, showing for each year 1938 to 1950, inclusive, the total dollar volume of sales of automotive accessories by Goodyear Tire and Rubber Company, Inc., or any other.

manufacturer, distributor, or seller to TBA distributors on which Richfield received any commission or other remuneration, such compilation to include the total annual amount of commission or remuneration received by Richfield from said seller or sellers on said sales.

For response thereto defendant submits a compilation as follows:

Year	Volume of of Sales	Annual Amount of Commission
1938	$295,672.16	$23,864.68
1939	290,038.66	23,110.71
1940	112,209.56	9,926.38
1941	95,549.46	9,519.05
1942	71,669.00	7,166.90
1943	87,105.50	8,710.55
1944	153,227.17	14,301.33
1945	361,967.00	32,484.88
1946	600,029.70	56,185.84
1947	449,159.26	44,069.77
1948	426,812.30	42,681.23
1949	362,961.50	36,296.15
1950	423,047.60	42,304.76

[fol. 789] Subpoena Duces Tecum

Paragraph No. 16

The original records, or a compilation prepared therefrom, showing the gross profit of Richfield, by years, from 1944 to 1950, inclusive, on sales by Richfield of automotive accessories to retail service station outlets and/or Richfield TBA distributors.

For response thereto defendant submits a compilation as follows:

Years	Gross Profit
1944	$200,364.94
1945	296,019.28
1946	415,189.48
1947	495,136.86
1948	517,290.69
1949	529,161.34
1950	653,052.98

[fol. 790] Subpoena Duces Tecum

Paragraph No. 17

The original records, or a compilation prepared therefrom, showing the total annual dollar volume, for each of the years 1944 to and including the year 1950, of automotive accessories purchased (1) by TBA distributors from Richfield, or (2) from others on which Richfield received any commission or remuneration, which were sold by said TBA distributors to retail service station operators at service station outlets handling or selling Richfield petroleum products.

For response thereto defendant submits a compilation as follows:

	(1)	(2)	(3)
1944	$1,219,481.38	$153,227.17	$960,895.99
1945	1,892,125.40	361,967.00	1,577,864.68
1946	2,895,557.23	600,029.70	2,446,910.85
1947	3,420,001.00	449,159.26	2,708,412.18
1948	3,360,518.00	426,812.30	2,651,131.21
1949	3,604,906.39	362,961.50	2,777,507.52
1950	4,278,123.54	423,047.60	3,290,819.80

Note: Defendant does not maintain records nor are records available to defendant which disclose the breakdown between the automotive accessories sold by TBA distributors to (a) L. O. Stations, Dealer 3-C Stations, and Dealer Stations, and (b) service stations not handling Richfield petroleum products. The TBA distributors have advised Richfield that in their opinion in excess of 30 per cent of accessories sold by TBA distributors are sold to service stations not handling Richfield petroleum products. Column (1) above represents automotive accessories purchased by TBA distributors from Richfield; column (2) represents the total dollar volume of automotive accessories with respect to which Richfield receives commissions; column (3) represents 70 per cent (100% less 30%) of the total of columns (1) and (2).

[fol. 791] **Subpoena Duces Tecum**

Paragraph No. 20

The original records, or a compilation prepared therefrom, showing the names and business addresses of all TBA distributors to which Richfield, as of the date of the service of this subpoena, sells automotive accessories selected by it for distribution and sale to retail service station operators handling or selling Richfield petroleum products.

For response thereto defendant submits a compilation as follows:

See Schedule I attached.

[fol. 792]

Paragraph No. 20

Schedule I

Name of Account	Address	City and State
F. L. Davies	P. O. Box 325	Albany, Oregon
D. C. Hall and H. L. Johnson	568 Pond St.	Astoria, Oregon
G. G. Richardson	U. P. R. R. & H Street	Baker, Oregon
T. M. Harmer	Squalicum Fill	Bellingham, Washington
Don Denning	E. First & Hawthorne	Bend, Oregon
H. L. Purcell	1400 N. Orchard	Boise, Idaho
G. C. Summers	Thompson & Marguite Sts.	Bremerton, Washington
J. L. Lawrence	West Aven St.	Caldwell, Idaho
V. E. McCluskey	700 S. Tower	Centralia, Washington
D. L. Lovitt	E. Garden Ave. & S. I. RR	Coeur D'Alene, Idaho
H. M. Peterson	"A" Street & RR	Colville, Washington
M. E. Cooney	NW of Condon on Oregon Hiway 205	Condon, Oregon
M. W. Harn	County Road 434 & SP RR	Corvallis, Oregon
L. Lasater	30th & Main	Cottage Grove, Oregon
R. E. Cathcart	Sixth St. & NP RR	Davenport, Washington
S. W. Schirmer	West Main	Dayton, Washington
L. A. Martinen	West 5th & NP RR	Ellensburg, Washington
D. D. Denney	UP Tracks & Depot St.	Enterprise, Oregon
H. R. Craig	Ninth & Railroad	Ephrata, Washington
R. B. Eatherton	"F" St. & 10th	Grants Pass, Oregon
F. S. Hall	Middle St. & CP RR	Grangeville, Idaho
L. W. Green	NW Corner Bullrun St. and Hiway 50	Gresham, Oregon
O. E. Schwab	County Road 404	Hillsboro, Oregon
James Rich	13th & Industrial	Hood River, Oregon
K. N. Heckard	Port of Ilwaco Property Road	Ilwaco, Washington

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R. F. Snyder	1133 Lake Street	Kirkland, Washington
T. J. O'Harra	2300-1/2 So. Sixth	Klamath Falls, Oregon
B. R. Hyde	Island City, Oregon	(LaGrande, Oregon)
P. J. Van Buskirk	State Hiway 5	LaGrande, Washington

Schedule I—(cont'd.)

Name of Account	Address	City and State
Shelby Baily	P. O. Box 829	Lakeview, Oregon
Floyd Cloninger	E. Lewiston & County Road	Lewiston, Idaho
H. E. Schmitt	Hiway 101	Lincoln Beach, Oregon
M. M. Wakefield	1347 Vandercook Way	Longview, Washington
H. P. Mahon	Lafayette Ave. & McDaniel Lane	McMinnville, Oregon
J. T. Rasmussen	Pacific Hiway—South of Medford	Medford, Oregon
F. W. Milliken and R. J. Servas	3075 Harrison St.	Milwaukie, Oregon
C. F. Lathen	924 S. Main St.	Moscow, Idaho
A. E. Aune	U. S. Hiway 101 and Bradshaw	Newport, Oregon
H. N. Graham	Sheridan & Connecticut	North Bend, Oregon
L. W. Kuest	First & Fifth Sts.	Odessa, Washington
D. K. Settle	U. S. 97 North of Okanogan	Okanogan, Washington
F. C. Blankinship	523-1/2 N. Oregon St.	Ontario, Oregon
K. R. Lester	125 S. 10th Ave.	Pasco, Washington
C. A. Moll	1600 S. W. Court	Pendleton, Oregon
E. R. Gehrke, Jr.	635 Marine Drive	Port Angeles, Washington
E. H. Nelson	State Hiway 3 at Harrison	Pullman, Washington
P. N. Mountcastle	545 Third St.	Raymond, Washington
C. C. Gillenwater	P. O. Box 606	Redmond, Oregon
F. A. Schaefer	Front & South "I" St.	Ritzville, Washington
K. H. Linder	Edembower & SP RR	Roseburg, Oregon

[fol. 794]

H. G. Lease	Columbia River Hiway	St. Helens, Oregon
Hubbard & Davis	521 Main	Sandpoint, Idaho
R. J. Kimbel	Olympia Hiway	Shelton, Washington
O. D. Snider	401 Pacific Hiway	Sumner, Washington
Jess Stiltner	6th St. & Hiway 40	Sunnyside, Washington
J. B. Crawford	River Road at Terminal Road	The Dalles, Oregon
F. W. Thomas	Foot of East Third	Tillamook, Oregon
H. E. Jesseph	13th & Sumach	Walla Walla, Washington
J. E. Miller	9th & Railroad	Wenatchee, Washington
W. S. Philipp	514 Broadway	Yakima, Washington
Geo. R. McCrimmon	1821 W. 6th St.	Aberdeen, Washington
F. M. Wolverton and E. A. Presley	Broadway at "B"	Burns, Oregon
Hulden Motors	Arlington	Arlington, Oregon
C. E. Beck Motor Co.	Cottage Grove	Cottage Grove, Oregon
Commercial Supply & Equipment Co.	1070 Lawrence St.	Eugene, Oregon
B. E. Hollander	2325 Broadway	Everett, Washington
Eldon Young		
Eldon Young's Richfield Service		Lakeview, Oregon
M. E. Lematta	P. O. Box 5	Otis Junction, Oregon (Lincoln Beach, Oregon)
Ordel Oil Company	121 N. Capitol Way	Olympia, Washington
E. Radke	1431 S. E. 37th	Portland, Oregon
A. W. Myers	P. O. Box 413	Renton, Washington
R. W. Hoy	461 N. Front St.	Salem, Oregon
J. A. Westlake & Son	1125-1/2 Westlake North	Seattle, Washington

[fol. 795]

Schedule I—(cont'd.)

Name of Account	Address	City and State
L. F. Hobson	N. 1007–11 Division St.	Spokane, Washington
Fleming & Larson	2502 S. Tacoma Way	Tacoma, Washington
E. O. Argabright	12th & Juniper (P. O. Box 231)	Alturas, California
J. C. Williams	Route 1, Box 50–J	Antioch, California
G. I. Redding	3rd & Clayton Road (P. O. Box 487)	Concord, California
J. C. Lancaster	P. O. Box 5	Blairsden, California
R. T. Harris	Cordelia Junction and Hiway 40	Cordelia, California
G. O. Muscato	P. O. Box 577	East Ely, Nevada
A. L. Lani	1st & Main Sts. (P. O. Box 628)	Elko, Nevada
E. J. Ashton	52 Ferguson St. (P. O. Box 671)	Fallon, Nevada
Cecil Roach	824 Franklin St.	Fort Bragg, California
L. C. Blaettler	U. S. 101 South of City Limits (Box T)	Gilroy, California
B. P. Robinson	307 Washington Ave.	Grass Valley, California
D. J. Calatro	North Hiway 33	Gustine, California
J. S. Ross	Route 2, Box 669	Hanford, California
R. H. Booker	9th Ave. (P. O. Box 554)	Jamestown, California
R. S. Smith	Railroad & Lynn Sts. (P. O. Box 25)	King City, California
I. O. Guinn	P. O. Box 727	Lakeport, California
W. J. Bonetti	1078 Fourth St.	Livermore, California
M. J. Kennedy	221 S. Cherokee Ave. (P. O. Box 347)	Lodi, California

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C. W. Fuss	So. Railroad Ave. (P. O. Box 537)	Lovelock, Nevada
L. C. Jirsa	16th & "T" Streets (P. O. Box 691)	Merced, California
J. A. Doane	P. O. Box 33 Gardnerville, Nevada	(Minden, Nevada)
E. H. Gossard	1609 9th St. (P. O. Box 845)	Modesto, California
H. T. Moss	P. O. Box 647	Monterey, California
J. V. Corbaley	6th & Pine Sts. (P. O. Box 475)	Paso Robles, California
J. H. Mahoney	P. O. Box 58	Petaluma, California
V. R. Welles	447 South "E" St. (P. O. Box 208)	Porterville, California
R. N. Martin	Veda & Willard Sts. (P. O. Box 182)	Redding, California
W. H. Kelly	Route 3, Box 746 (P. O. Box 285)	Reedley, California
R. A. Bennett	P. O. Box 1489	Salinas, California
G. E. Muttersbach	Canal Road (P. O. Box 548)	San Rafael, California
F. J. Devins	139 Encinal St. (P. O. Box 473)	Santa Cruz, California
P. P. Greuner	Frances & Cleveland (P. O. Box 744)	Santa Rosa, California
K. R. Doyle	1110 Gay St. (P. O. Box 237)	Susanville, California
W. H. Ogan	"J" & Bush Sts. (P. O. Box 1098)	Tulare, California

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Schedule I—(cont'd.)

Name of Account	Address	City and State
L. C. Hughes	So. Front St. (P. O. Box 688)	Turlock, California
R. I. Buxton	Thomas Road (P. O. Box 388)	Ukiah, California
Merril H. Fisher	1130 S. Main St. (P. O. Box 1107)	Visalia, California
M. L. Amaral	Railroad Ave. & Salinas Road	Watsonville, California
J. F. Harris	P. O. Box 428	Weed, California
P. L. Bengochea	East Railroad St. (P. O. Box 306)	Winnemucca, Nevada
L. R. Landis	559 Bridge St. (P. O. Box 449)	Yuba City, California
H. M. Hill	596 East 7th St.	Chico, California
R. S. Schofield		
S&M Auto Supply	626 Broadway	Eureka, California
M. C. Jensen	517 North 1st St.	Fresno, California
H. L. Speed		
Speed's Automotive	1410 31st Ave.	Oakland, California
L. V. Lani	1118 "B" St. (P. O. Box 198)	Sparks, Nevada
A. E. Schoenwald		
Schoney's	2418 17th St.	Sacramento, California
G. M. Alee	706 E. Lindsay St.	Stockton, California
A. Massei		
Massei Auto Supply	5119 Mission St.	San Francisco, California
J. H. Nicholson	92 So. River St.	San Jose, California
George Fleetham	9th St. & Railroad Ave.	Douglas, Arizona
J. G. Langham	South Fifth St.	Globe, Arizona

[fol. 798]

Lyle E. Trimble	641 W. Main St.	Mesa, Arizona
John W. Higgins	800 Sixth Ave.	Safford, Arizona
M. W. Duncan	301 E. Railroad St.	Williams, Arizona
A. H. Shipkey	1406 W. Broadway	Anaheim, California
E. D. Clark	420 E. Main St.	Barstow, California
W. A. Dayvault	450 S. Spring St.	Blythe, California
L. C. Cox	4th & Cantaloupe Sts.	Coachella, California
H. J. Meek	4th & Quince	Escondido, California
W. L. Graves	610 Main St.	Las Vegas, Nevada
E. E. Glenn	501 S. Cleveland St.	Oceanside, California
John Vaughn	198 N. Hamilton	Pomona, California
A. W. Pitts	Fifth St. Rd.	Camarillo, California
R. G. Hopper	139 E. Lumber St.	Lancaster, California
L. J. Begg	335 N. "G" St.	Lompoc, California
A. F. Schwartz	12160 Truman St.	San Fernando, California
Elmer T. Schroeder	1202 S. Main St.	Lone Pine, California
A. A. Meyer	130 N. Salsipuedes	Santa Barbara, California
A. C. Young	401 E. Hermosa Ave.	Santa Maria, California
E. E. Truesdell	211 N. 12th St.	Santa Paula, California
E. P. Locey	233 Dubbers St.	Ventura, California
J. W. Hillebert	Hiway 260	Holbrook, Arizona
George Eicca	First and Beale Sts.	Kingman, Arizona
Lakewood Dist. Co.	3848 A Atlantic Ave.	Long Beach, California
Turner Bunnell	7427 S. Western Ave.	Los Angeles, California
Stearns Tire Co.	455 S. Fairfax Ave.	Los Angeles, California
M. T. Tietjen	1954 Naomi	Los Angeles, California
C. G. Doucette	3313 Fernwood Ave.	Lynwood, California
Jack Dunbar	2007 N. 16th St.	Phoenix, Arizona
M. J. Cervantes	1003 N. Penn Place	Tucson, Arizona

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Schedule I—(cont'd.)

Name of Account	Address	City and State
I. V. Service St. Supply	27 E. 3rd St.	Calexico, California
Taylor & Oslund Auto Supply	425 Baseline St.	San Bernardino, California
Service Station Supply Co.	1059 University Ave.	San Diego, California
Don E. Shaffer	139 Traffic Way	Arroyo Grande, California
George Gordon	131 1st St.	Bakersfield, California
Snyder-Lynch	811 S. San Fernando Rd.	Burbank, California
Vern Nevitt	1263 S. Brand Blvd.	Glendale, California
Charles Cole	447 E. Walnut	Pasadena, California
John Webster	4576 Sepulveda Blvd.	Van Nuys, California
G. A. Powell	2545 E. 24th St.	Los Angeles, California
S. E. Rondon	2545 E. 24th St.	Los Angeles, California
J. T. Tye	2545 E. 24th St.	Los Angeles, California
Carter-Hunter Oil Co.	512 S. "L" St.	Imperial, California
Harold Parks	325 Roosevelt	Long Beach, California
Armour Oil Co.	3715 Estudillo St.	Los Angeles, California
H. H. McCuistion, d/b/a Peerless Lubricating Co.	11546 Hiway 101	Santa Ana, California
F. P. O'Reilly	Goleta, California	Goleta, California
Raymond Hahn, d/b/a McCormack Oil Co.	221 N. Ventura Ave.	Ventura, California
Van McWhirter	15015 Oxnard	Van Nuys, California
Pacific Coast Borax Co.	Death Valley Junction	Death Valley, California
T. B. Smith	1400 W. 8th St.	Long Beach, California
Orange Empire Oil Co.	157 N. Towne Ave.	Pomona, California
H. C. Reinert	8118 San Fernando Rd.	Sun Valley, California
Fred C. Clark	310 Sunland	Bishop, California

[fol. 800] Subpoena Duces Tecum

Paragraph No. 21

The original records, or a compilation prepared therefrom, showing with respect to the TBA distributors listed in response to paragraph 20 above, the names of such of said distributors who are also acting as commission bulk plant operators under any commission agency agreement with Richfield, and the names of such of said distributors who are operating bulk plants as salaried employees of Richfield.

For response thereto defendant submits a compilation as follows:

See Schedule I attached.

Note: No salaried employees of Richfield are TBA distributors.

[fol. 801]

Paragraph No. 21

Schedule I

Name of Distributor	Address	City and State
F. L. Davies	P. O. Box 325	Albany, Oregon
D. C. Hall and H. L. Johnson	568 Pond Street	Astoria, Oregon
G. G. Richardson	UP RR & H Street	Baker, Oregon
T. M. Harmer	Squalicum Fill	Bellingham, Washington
Don Denning	E. First & Hawthorne	Bend, Oregon
H. L. Purcell	1400 N. Orchard	Boise, Idaho
G. C. Summers	Thompson & Marguerite Sts.	Bremerton, Washington
J. L. Lawrence	West Aven Street	Caldwell, Idaho
V. E. McCluskey	700 S. Tower	Centralia, Washington
D. L. Lovitt	E. Garden Ave. & SI RR	Coeur D'Alene, Idaho
H. M. Peterson	"A" Street & RR	Colville, Washington
M. E. Cooney	NW of Condon on Oregon Hiway 205	Condon, Oregon
M. W. Harn	County Road 434 & SP RR	Corvallis, Oregon
L. Lasater	30th & Main	Cottage Grove, Oregon
R. E. Cathcart	Sixth St. & NP RR	Davenport, Washington
S. W. Schirmer	West Main	Dayton, Washington
L. A. Martinen	West 5th & NP RR	Ellensburg, Washington
D. D. Denney	UP Tracks & Depot St.	Enterprise, Oregon
H. R. Craig	Ninth & Railroad	Ephrata, Washington
R. B. Eatherton	"F" St. & 10th	Grants Pass, Oregon
F. S. Hall	Middle St. & CP RR	Grangeville, Idaho
L. W. Green	NW Corner Bullrun Street & Hiway 50	Gresham, Oregon
O. E. Schwab	County Road 404	Hillsboro, Oregon
James Rich	13th & Industrial	Hood River, Oregon
K. N. Heckard	Port of Ilwaco, Property Rd.	Ilwaco, Washington

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R. F. Snyder	1133 Lake Street	Kirkland, Washington
T. J. O'Harra	2300½ So. Sixth	Klamath Falls, Oregon
B. R. Hyde	Island City, Oregon	(LaGrande, Oregon)
P. J. Van Buskirk	State Hiway 5	LaGrande, Washington
Shelby Baily	P. O. Box 829	Lakeview, Oregon
Floyd Cloninger	E. Lewiston & County Road	Lewiston, Idaho
H. E. Schmitt	Hiway 101	Lincoln Beach, Oregon
M. M. Wakefield	1347 Vandercook Way	Longview, Washington
H. P. Mahon	Lafayette Ave. & McDaniel Lane	McMinnville, Oregon
J. T. Rasmussen	Pacific Hiway So. of Medford	Medford, Oregon
F. W. Milliken and R. J. Servas	3075 Harrison St.	Milwaukie, Oregon
C. F. Lathen	924 S. Main St.	Moscow, Idaho
A. E. Aune	U. S. Hiway 101 & Bradshaw	Newport, Oregon
H. N. Graham	Sheridan & Connecticut	North Bend, Oregon
L. W. Kuest	First & Fifth Sts.	Odessa, Washington
D. K. Settle	U. S. 97—No. of Okanogan	Okanogan, Washington
F. C. Blankinship	523½ N. Oregon St.	Ontario, Oregon
K. R. Lester	125 S. 10th Ave.	Pasco, Washington
C. A. Moll	1600 S. W. Court	Pendleton, Oregon
E. R. Gehrke, Jr.	635 Marine Dr.	Port Angeles, Washington
E. H. Nelson	State Hiway 3 at Harrison	Pullman, Washington
P. N. Mountcastle	545 Third St.	Raymond, Washington
C. C. Gillenwater	P. O. Box 696	Redmond, Oregon
F. A. Shaefer	Front & South "I" St.	Ritzville, Washington

Schedule I—(cont'd.)

Name of Distributor	Address	City and State
K. R. Linder	Edembower & SP RR	Roseburg, Oregon
H. G. Lease	Columbia River Hiway	St. Helens, Oregon
[fol. 803]		
Hubbard & Davis	521 Main	Sandpoint, Idaho
R. J. Kimbel	Olympia Hiway	Shelton, Washington
O. D. Snider	401 Pacific Hiway	Sumner, Washington
Jess Stiltner	6th St. & Hiway 40	Sunnyside, Washington
J. B. Crawford	River Road at Terminal Road	The Dalles, Oregon
F. W. Thomas	Foot of East Third	Tillamook, Oregon
H. E. Jesseph	13th & Sumach	Walla Walla, Washington
J. E. Miller	9th & Railroad	Wenatchee, Washington
W. S. Philipp	514 Broadway	Yakima, Washington
E. O. Argabright	12th & Juniper (P. O. Box 231)	Alturas, California
J. C. Williams	Route 1, Box 50-J	Antioch, California
J. C. Lancaster	P. O. Box 5	Blairsden, California
G. I. Reading	3rd & Clayton Rd. (P. O. Box 487)	Concord, California
R. T. Harris	Cordelia Junction & Hiway 40	Cordelia, California
G. C. Muscato	P. O. Box 577	East Ely, Nevada
A. L. Lani	1st & Main Streets (P. O. Box 628)	Elko, Nevada
E. J. Ashton	52 Ferguson St. (P. O. Box 671)	Fallon, Nevada
Cecil Roach	824 Franklin St.	Fort Bragg, California
L. C. Blaettler	U. S. 101 S. of City Limits (Box T)	Gilroy, California
B. P. Robinson	307 Washington Ave.	Grass Valley, California
D. J. Galatro	No. Hiway 33	Gustine, California
J. S. Ross	Route 2, Box 669	Hanford, California
[fol. 804]		
R. H. Booker	9th Ave. (P. O. Box 554)	Jamestown, California
R. S. Smith	Railroad & Lynn Sts. (Box 25)	King City, California
I. O. Guinn	P. O. Box 727	Lakeport, California
W. J. Bonetti	1078 Fourth St.	Livermore, California
M. J. Kennedy	221 S. Cherokee Ave. (P. O. Box 347)	Lodi, California
C. W. Fuss	So. Railroad Ave. (P. O. Box 537)	Lovelock, Nevada
L. C. Jirsa	16th & "T" Sts. (P. O. Box 691)	Merced, California
J. A. Doane	P. O. Box 33	Gardnerville, Nevada (Minden, Nevada)
E. H. Gossard	1609—9th St. (P. O. Box 845)	Modesto, California
H. T. Moss	P. O. Box 647	Monterey, California
J. V. Corbaley	6th & Pine Sts. (P. O. Box 475)	Paso Robles, California
J. H. Mahoney	P. O. Box 58	Petaluma, California
V. R. Welles	447 South "E" St. (P. O. Box 208)	Porterville, California
R. N. Martin	Veda & Willard Sts. (P. O. Box 182)	Redding, California
W. H. Kelly	Route 3, Box 746 (P. O. Box 285)	Reedley, California
R. A. Bennett	P. O. Box 1489	Salinas, California
G. E. Muttersbach	Canal Road (P. O. Box 548)	San Rafael, California

[fol. 805]

Schedule I—(cont'd.)

Name of Distributor	Address	City and State
F. J. Devins	139 Encinal St. (P. O. Box 473)	Santa Cruz, California
P. P. Gruener	Frances & Cleveland (P. O. Box 744)	Santa Rosa, California
K. R. Doyle	1110 Gay St. (P. O. Box 237)	Susanville, California
W. H. Ogan	"J" & Bush Sts. (P. O. Box 1098)	Tulare, California
L. C. Hughes	So. Front St. (P. O. Box 688)	Turlock, California
R. I. Buxton	Thomas Road (P. O. Box 388)	Ukiah, California
Merril H. Fisher	1130 E. Main St. (P. O. Box 1107)	Visalia, California
M. L. Amaral	Railroad Ave. & Salinal Road	Watsonville, California
J. F. Harris	P. O. Box 428	Weed, California
P. L. Bengochea	East Railroad St. (P. O. Box 306)	Winnemucca, Nevada
L. R. Landis	559 Bridge Street (P. O. Box 449)	Yuba City, California
George Fleetham	9th Street and Railroad Ave.	Douglas, Arizona
J. G. Langham	South Fifth St.	Globe, Arizona
Lyle E. Trimble	641 W. Main St.	Mesa, Arizona
John W. Higgins	800 Sixth Ave.	Safford, Arizona
M. W. Duncan	301 E. Railroad Street	Williams, Arizona
A. H. Shipkey	1406 W. Broadway	Anaheim, California
E. D. Clark	420 E. Main St.	Barstow, California

[fol. 806]

W. A. Dayvault	450 S. Spring St.	Blythe, California
L. C. Cox	4th & Cantaloupe Sts.	Coachella, California
H. J. Meek	4th & Quince	Escondido, California
W. L. Graves	610 Main St.	Las Vegas, Nevada
E. E. Glenn	501 S. Cleveland St.	Oceanside, California
John Vaughn	198 N. Hamilton	Pomona, California
A. W. Pitts	Fifth St. Road	Camarillo, California
R. G. Hopper	139 E. Lumber St.	Lancaster, California
Fred C. Clark	310 Sunland	Bishop, California
L. J. Begg	335 N. "G" St.	Lompoc, California
Elmer T. Schroeder	1202 S. Main St.	Lone Pine, California
A. F. Schwartz	12160 Truman St.	San Fernando, California
A. A. Meyer	130 N. Salsipuedes	Santa Barbara, California
A. C. Young	401 E. Hermosa Ave.	Santa Maria, California
E. E. Truesdell	211 N. 12th St.	Santa Paula, California
E. P. Locey	233 Dubbers St.	Ventura, California

Government Exhibit 27

Form 146 10M 1-48

CHECK SHEET

CHANGE OF SERVICE STATION LESSEE

SS#_____ LOCATION_____ TOWN_____

AGENCY_____ DATE OF CHECKOUT_____ (Last day for Outgoing Lessee)

OUTGOING LESSEE_____ HOME ADDRESS_____

INCOMING LESSEE_____ HOME ADDRESS_____

OUTGOING LESSEE	CHECK WITH INITIALS
1. Termination Agreement Form 306 Signed	
2. Collection Made For:	
A. Flat and Gallonage Rents	
B. Merchandise Account	
C. Form 609 Goodyear Purchase Orders	
D. Trade Acceptance	
E. Note Account	
F. Credit Card Customers' Payment To Dealer	
3. Form 542, Schedules Checked On Actual Physical Inventory On All Items	
A. Form 90 Prepared Charging Dealer With Broken Or Missing Equipment	
B. Form 90 Prepared Charging Worn Out Equipment To Abandonment	
C. Form 32 Prepared Requisitioning Replacements Or Repairs	
D. Burned Out Light Globes Replaced By Dealer	
E. Broken Windows Replaced By Dealer	
4. Customer Records (P & C) Files Turned Over To New Lessee	
5. Utility Bills Paid (Gas, Water, Electricity, Phone) Handle Following Complete Checkout	
6. State Sales Tax Reported And Paid To Date	
7. M. R. Form 94 Prepared On Returned Petroleum Products	
8. Station Keys Turned Over To New Lessee	
9. Inventory Stocks (All Forms In Triplicate)	
A. Form 146A — Petroleum Products	
B. Form 146B — TBA Merchandise & Supplies	
C. Form 146C — Equipment With Depreciation	
Original — Incoming Dealer	
Duplicate — Outgoing Dealer	
Triplicate — With Form 542	
10.	

INCOMING LESSEE

1. Lease, Form 542 And Schedules A, B, C, & D, Signed
2. First Month's Advance Rental Prorated And Collected
   A. Prorated Flat And Gallonage Rents Explained
3. Credit Application Form 1101 Prepared
4. Tax Exemption Certificate Form 822 Prepared
5. Lessee Advised As To Responsibility Regarding Insurance Coverage For Fire, Theft, Public Liability, Property Damage And Workmen's Compensation
6. Lessee Advised As To Reporting Social Security, Federal Old Age, Income And Personal Property Taxes And Filing Return Quarterly For State Sales Tax
7. T. B. A. Program Explained
   A. Catalogue And Price Sheets Brought Up To Date
8. Orders Placed For, Or Lessee Supplied With:
   A. Uniforms
   B. Petroleum Products
   C. Dealer Supply Department Materials
   D. Q.S.R. Bookkeeping System Installed
   E. Current Advertising
9. Application Made For:
   A. Motor Fuel Pump License (if needed)
   B. Resaler's Permit (if needed)
   C. Municipal Or County Licenses
   D. Utilities (Gas, Water, Electricity, Phone) At Completion Of Check-in
10. Lessee Advised As To His Responsibility Under State Law Governing Purchase Outgoing Lessee's Equipment And Merchandise
    A. "Notice Of Intention To Sell" Recorded
    B. "Notice Of Intention To Sell" Published
    C. Funds Placed In Escrow
11. Explanation Of Richfield Products And Their Uses
12. Explanation Of Recommended Prices On:
    A. Merchandise
    B. Services
13. Notify T. B. A. Distributor Of Change Of Lessee
14. Lease Papers Forwarded To Division Office:
    A. Form 306, Termination Agreement
    B. Form 542, Service Station Lease, And Schedules
    C. Form 464, Notice Of Change Of Dealers
    D. Form 146
15. Triplicates Of Form 146 A, B, & C Filed With Form 542 In Branch Or Agency File
16. Arrangements Made To Spend A Minimum Of Two Days With Dealer
17. "Plan For Profits" Books Supplied And Explained

Date Prepared ..... Prepared by .....
(Richfield Representative)

Government Exhibit 28

LOS ANGELES JULY 22, 9

MR. W. J. DeMARTINI

cc: Mr A C Carr

SUBJECT: S.S. #7065
35th AVE. & CHRISTY RD.
PHOENIX, ARIZONA

We entered into a 3-C contract with a Mr. Loyal Dacey on 12/23/47 covering the subject service station where we have installed two computer pumps, two 1000-gallon tanks, one compressor, one hoist, two Cox air and water wells, and three Hi-Boys, all of which equipment--under the terms of our proposition--remains Richfield property. Our 3-C proposition runs until 12/22/53 and the station is producing an average of 10,500 gallons.

On April 27, 1949 Mr. Dacey sold his property to a Ralph S. McCracken who purchased the property subject to our lease. Just recently, Mr. McCracken advised our people that he intended to serve us with a notice to relinquish our lease inasmuch as he wished to put in another brand of gasoline and operate the location as a cut-price station.

For your further information, McCracken operates another station in Phoenix, a large 10-pump unit handling Phillips 66 products (standard gasoline bought through Texas Independent and selling at a discount of 4¢ under the prevailing price in the Phoenix area).

This is the first time that I recall that we have been faced with a test on our 3-C proposition and while I recall from past conversations with you that it is extremely doubtful as to what extreme we would go to enforce this paper, nevertheless, I wish you would advise me just how far we can go and what reply we should make to McCracken when he serves us with a notice to vacate.

In addition, as pointed out above, we own a substantial amount of equipment and in the event we do not deem it wise to contest this action and are forced to relinquish this location, I certainly hope that some means can be found to compel McCracken to return our equipment to our warehouse and at his expense, that is, unless he makes a satisfactory offer to buy, which we are willing to accept.

WOKJr:wpo

W. T. DINKINS

vs. RICHFIELD (6896-Y)

ENA DUCES TECUM - NO. 2

APH NO. II ITEM NO. 8

809

390

Government Exhibit 28-A

SOUTHERN DIVISION October 3, 9

MR. A. M. SCHROEDER

PERSONAL PHOENIX

SUBJECT: SERVICE STATION #7055
35th Ave., & Christy Rd.,
Phoenix, Arizona

Reference is made to your recent letter concerning this 3-C proposition.

I am now advised as follows:

"If and when McCracken serves us with a notice to vacate, I think we should advise him that we have a lease which we intend to enforce. However, realizing our position is not too strong, it looks like it would be better business to attempt to work out something with McCracken on an amicable basis, not in any way indicating, however, that we consider our position a weak one. This requires some good salesman ship and no doubt Schroeder or Callaher can handle it on this basis."

Please be governed accordingly.

A. C. CARR

ACC/er

U. S. vs. RICHFIELD (6896-Y)
SUBPOENA DUCES TECUM - NO. 3
PARAGRAPH NO. II ITEM NO. 9

POOR COPY

Government Exhibit 29

FORM 600 35M 9-49

RICHFIELD OIL CORPORATION

155 W. WASHINGTON BLVD. - - - P.O. BOX 7927 DEL VALLE STATION
LOS ANGELES 15, CALIFORNIA

Debit or Credit Memorandum

BOMIO BROS.
SS #386-A
SANBORN & ALISAL
SALINAS, CALIFORNIA

No. A. Lima
STATION SAN FRANCISCO
ACCOUNT NO. 130
DATE JULY 26, 19 50

WE TODAY credit YOUR ACCOUNT AS FOLLOWS:

	CHARGE	CREDIT
We credit your account in the amount of $49.44 for past discounts due for the purchase of Goodyear tires and tubes		49 44

THIS PAGE BOUND VERTICAL IN BOOK

Government Exhibit 29

FORM 600 SSM 9-45

RICHFIELD OIL CORPORATION

155 W. WASHINGTON BLVD. - - - P.O. BOX 7927 DEL VALLE STATION
LOS ANGELES 15, CALIFORNIA

Debit or Credit Memorandum

BOMIO BROS.
SS #386-A
SANBORN & ALISAL
SALINAS, CALIFORNIA

No. Salinas Fed
STATION SAN FRANCISCO
ACCOUNT NO. 130
DATE JULY 26, 19 50

WE TODAY credit YOUR ACCOUNT AS FOLLOWS:

	CHARGE	CREDIT
We credit your account in the amount of $49.44 for past discounts due for the purchase of Goodyear tires and tubes		49 44
Before any of our Richfield Dealers can qualify for appreciable discounts and refunds on a purchase of Goodyear tires and tubes, it is necessary for them to make their purchases through the same supplier for a full year.		
In Salinas, however, during the year 1949, through Richfield's lack of ability to provide a supplier for the whole year, having changed distributors on three separate occasions, some of our dealers did not receive the proper discounts entitled them under Richfield's TBA set-up.		
Mr. Bomio, one of our best TBA accounts in the Salinas area is one of these dealers. Mr. Bomio has remained loyal to Richfield throughoutour many TBA distributor changes and has purchased all his TBA requirements through the authorized Richfield TBA channels. At the end of 1949 he was entitled to receive tire and tube discounts amounting to $49.44 as a result of these purchases which he did not receive. The dealer feels that unless this refund is forthcoming from Richfield he should discontinue dealing with Richfield TBA distributors entirely as it would be wiser for him to deal with a supplier that has been in business many years in order that he may retain the discounts that he is entitled to and which are openly advertised.		
TOTAL		49 44

U. S. vs. RICHFIELD (CODE-Y)
SUBPOENA DUCES TECUM - NO. 2
PARAGRAPH NO. 11 ITEM NO. 10

811

391

THIS PAGE BOUND VERTICAL IN BOOK

Case No. 2957

vs

392

Government Exhibit 30

SURVEY OF SERVICE STATION OPERATIONS

...aler's Name _____ Date _____ 19__

Street Address _____ City _____ Agency _____

SS# _____ Operating Hours _____ m. To _____ m. Last Survey Made _____ 19__

Total Sales Last Month:— Gasoline _____ Motor Oil _____ Motor Oil Ratio _____

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED				
BUILDING EXTERIOR CLEAN				
BUILDING INTERIOR CLEAN				
CONDITION of PAINT				
YARD and DRIVEWAYS				
PLANTING AREA				
ADJOINING AREA				
WINDOWS CLEAN				
WINDOW DISPLAYS SET UP				
MERCHANDISE CLEAN				
LIGHTS - Proper Size - Working				
UNAUTHORIZED SIGNS				
SIGNS CLEAN (Ridge, etc.)				
PUMPS CLEAN - Prices Posted				
FIRE EXTINGUISHERS - Filled - Tagged				
OIL DISPENSERS - Clean - Decaled				
CAN RACKS - Clean - Filled				
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed				
LUBE EQUIPMENT - Clean - Decaled				
HOIST - Clean - Working Properly				
FLOOR - Clean - Sump Working Properly				
ADEQUATE TOOLS - Well Arranged				
PROPER DISPOSAL of REFUSE				
REST ROOMS				
WALLS CLEAN				
FLOOR CLEAN				
TOILET BOWL CLEAN				
WASH BASIN CLEAN				
MIRRORS - Clean and in place				
WASTE BASKETS and Sanitary Receptacles				
PAPER TOWELS				
BORAXO DISPENSER FILLED				
TOILET TISSUE				
SEAT COVERS				
COAT HOOKS				
DOORS UNLOCKED				
CHECKED EVERY HOUR				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN				
SHAVE and HAIRCUT				
AUTHORIZED JACKET				
AUTHORIZED UNIFORM				
SALES and SERVICE AIDS				
Performs "5" Point Safety Service				
Observance of Plus Sales				
Oil Napkins and Dispenser				
Approved Windshield Cleaning Equip.				
Credit Card Clip Boards				
Job Tickets				
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index				
Date Book				
Follow-Up Cards				
Rubber Name Stamp				
MANAGEMENT				
Adequate Bookkeeping System				
Monthly and Daily Sales Ratios				
Stock Inventory				
Federal and State Taxes				
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis				
Prospect List				
Market Area Map and Pins				
3 x 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER

Acknowledged _____

RICHFIELD REPRESENTATIVE

By _____

Write on reverse side what you did to help this dealer.

812

393

FORM - 205 - 7-48

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name _____ Date _____ 19__

Street Address _____ City _____ Agency _____

SS# _____ Operating Hours _____ m. To _____ m. Last Survey Made _____ 19__

Total Sales Last Month:— Gasoline _____ Motor Oil _____ Motor Oil Ratio _____

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED				
BUILDING EXTERIOR CLEAN				
BUILDING INTERIOR CLEAN				
CONDITION of PAINT				
YARD and DRIVEWAYS				
PLANTING AREA				
ADJOINING AREA				
WINDOWS CLEAN				
WINDOW DISPLAYS SET UP				
MERCHANDISE CLEAN				
LIGHTS - Proper Size - Working				
UNAUTHORIZED SIGNS		/		
SIGNS CLEAN (Ridge, etc.)				
PUMPS CLEAN - Prices Posted				
FIRE EXTINGUISHERS - Filled - Tagged				
OIL DISPENSERS - Clean - Decaled				
CAN RACKS - Clean - Filled				
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed				
LUBE EQUIPMENT - Clean - Decaled				
HOIST - Clean - Working Properly				
FLOOR - Clean - Sump Working Properly				
ADEQUATE TOOLS - Well Arranged				
PROPER DISPOSAL of REFUSE				
REST ROOMS				
WALLS CLEAN				
FLOOR CLEAN				
TOILET BOWL CLEAN				
WASH BASIN CLEAN				
MIRRORS - Clean and in place				
WASTE BASKETS and Sanitary Receptacle				
PAPER TOWELS				
BORAXO DISPENSER FILLED				
TOILET TISSUE				
SEAT COVERS				
COAT HOOKS				
DOORS UNLOCKED				
CHECKED EVERY HOUR				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN				
SHAVE and HAIRCUT				
AUTHORIZED JACKET				
AUTHORIZED UNIFORM				
SALES and SERVICE AIDS				
Performs "S" Point Safety Service				
Observance of Price Sales				
Oil Napkins and Dispenser				
Approved Windshield Cleaning Equip.				
Credit Card Clip Boards				
Job Tickets				
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index				
Date Book				
Follow-Up Cards				
Rubber Name Stamp				
MANAGEMENT				
Adequate Bookkeeping System				
Monthly and Daily Sales Ratios				
Stock Inventory				
Federal and State Taxes				
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis				
Prospect List				
Market Area Map and Pins				
3 x 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER

Acknowledged _____

RICHFIELD REPRESENTATIVE

By _____

Write on reverse side what you did to help this dealer.

813

FORM - 349 - 7-48

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name H.W. Gaus Date 19

Street Address Hiway 101 City Agency

Gas# F Operating Hours m. To m. Last Survey Made 19

Total Sales Last Month:— Gasoline Motor Oil Motor Oil Ratio

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED				
BUILDING EXTERIOR CLEAN				
BUILDING INTERIOR CLEAN				
CONDITION of PAINT				
YARD and DRIVEWAYS				
PLANTING AREA				
ADJOINING AREA				
WINDOWS CLEAN				
WINDOW DISPLAYS SET UP				
MERCHANDISE CLEAN				
LIGHTS - Proper Size - Working				
UNAUTHORIZED SIGNS		✓		✓
SIGNS CLEAN (Ridge, etc.)				
PUMPS CLEAN - Prices Posted				
FIRE EXTINGUISHERS - Filled - Tagged				
OIL DISPENSERS - Clean - Decaled				
CAN RACKS - Clean - Filled				
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed				
LUBE EQUIPMENT - Clean - Decaled				
HOIST - Clean - Working Properly				
FLOOR - Clean - Sump Working Properly				
ADEQUATE TOOLS - Well Arranged				
PROPER DISPOSAL of REFUSE				
REST ROOMS				
WALLS CLEAN				
FLOOR CLEAN				
TOILET BOWL CLEAN				
WASH BASIN CLEAN				
MIRRORS - Clean and in place				
WASTE BASKETS and Sanitary Receptacle				
PAPER TOWELS				
BORAXO DISPENSER FILLED				
TOILET TISSUE				
SEAT COVERS				
COAT HOOKS				
DOORS UNLOCKED				
CHECKED EVERY HOUR				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN				
SHAVE and HAIRCUT				
AUTHORIZED JACKET				
AUTHORIZED UNIFORM				
SALES and SERVICE AIDS				
Performs "S" Point Safety Service				
Observance of Price Sales				
Oil Napkins and Dispenser				
Approved Windshield Cleaning Equip.				
Credit Card Clip Boards				
Job Tickets				
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index				
Date Book				
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Rubber Name Stamp				
MANAGEMENT				
Adequate Bookkeeping System				
Monthly and Daily Sales Ratios				
Stock Inventory				
Federal and State Taxes				
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis				
Prospect List				
Market Area Map and Pins				
3 x 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER **RICHFIELD REPRESENTATIVE**

Acknowledged H.E. Schindler KHT By

Write on reverse side what you did to help this dealer.

814

395

FORM - 300 - 3-49

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name _____ Date _____ 19__

Street Address _____ City _____ Agency _____

SS# _____ Operating Hours _____ m. To _____ m. Last Survey Made _____ 19__

Total Sales Last Month:— Gasoline _____ Motor Oil _____ Motor Oil Ratio _____

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED				
BUILDING EXTERIOR CLEAN				
BUILDING INTERIOR CLEAN				
CONDITION of PAINT				
YARD and DRIVEWAYS				
PLANTING AREA				
ADJOINING AREA				
WINDOWS CLEAN				
WINDOW DISPLAYS SET UP				
MERCHANDISE CLEAN				
LIGHTS - Proper Size - Working				
UNAUTHORIZED SIGNS		/		
SIGNS CLEAN (Ridge, etc.)				
PUMPS CLEAN - Prices Posted				
FIRE EXTINGUISHERS - Filled - Tagged				
OIL DISPENSERS - Clean - Decaled				
CAN RACKS - Clean - Filled				
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed				
LUBE EQUIPMENT - Clean - Decaled				
HOIST - Clean - Working Properly				
FLOOR - Clean - Sump Working Properly				
ADEQUATE TOOLS - Well Arranged				
PROPER DISPOSAL of REFUSE				
REST ROOMS				
WALLS CLEAN				
FLOOR CLEAN				
TOILET BOWL CLEAN				
WASH BASIN CLEAN				
MIRRORS - Clean and in place				
WASTE BASKETS and Sanitary Recept.				
PAPER TOWELS				
BORAXO DISPENSER FILLED				
TOILET TISSUE				
SEAT COVERS				
COAT HOOKS				
DOORS UNLOCKED				
CHECKED EVERY HOUR				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN				
SHAVE and HAIRCUT				
AUTHORIZED JACKET				
AUTHORIZED UNIFORM				
SALES and SERVICE AIDS				
Performs "S" Point Safety Service				
Observance of Plus Sales				
Oil Napkins and Dispenser				
Approved Windshield Cleaning Equip.				
Credit Card Clip Boards				
Job Tickets				
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index				
Date Book				
Follow-Up Cards				
Rubber Name Stamp				
MANAGEMENT				
Adequate Bookkeeping System				
Monthly and Daily Sales Ratios				
Stock Inventory				
Federal and State Taxes				
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis				
Prospect List				
Market Area Map and Pins				
3 x 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER

Acknowledged Lloyd M. Harnar

RICHFIELD REPRESENTATIVE

By _____

Write on reverse side what you did to help this dealer.

815

COPY ROUND OUT

FORM - 395 - 7-48

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name [illegible] Date [illegible] 19

Street Address 824 [illegible] City [illegible] Agency [illegible]

55# F Operating Hours [illegible] m. To [illegible] m. Last Survey Made [illegible] 19

Total Sales Last Month:— Gasoline [illegible] Motor Oil [illegible] Motor Oil Ratio [illegible]

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED				
BUILDING EXTERIOR CLEAN				
BUILDING INTERIOR CLEAN				
CONDITION of PAINT				
YARD and DRIVEWAYS				
PLANTING AREA				
ADJOINING AREA				
WINDOWS CLEAN				
WINDOW DISPLAYS SET UP				
MERCHANDISE CLEAN				
LIGHTS - Proper Size - Working				
UNAUTHORIZED SIGNS				
SIGNS CLEAN (Ridge, etc.)				
PUMPS CLEAN - Prices Posted				
FIRE EXTINGUISHERS - Filled - Tagged				
OIL DISPENSERS - Clean - Decaled				
CAN RACKS - Clean - Filled				
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed				
LUBE EQUIPMENT - Clean - Decaled				
HOIST - Clean - Working Properly				
FLOOR - Clean - Sump Working Properly				
ADEQUATE TOOLS - Well Arranged				
PROPER DISPOSAL of REFUSE				
REST ROOMS				
WALLS CLEAN				
FLOOR CLEAN				
TOILET BOWL CLEAN				
WASH BASIN CLEAN				
MIRRORS - Clean and in place				
WASTE BASKETS and Sanitary Recept.				
PAPER TOWELS				
BORAXO DISPENSER FILLED				
TOILET TISSUE				
SEAT COVERS				
COAT HOOKS				
DOORS UNLOCKED				
CHECKED EVERY HOUR				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN				
SHAVE and HAIRCUT				
AUTHORIZED JACKET				
AUTHORIZED UNIFORM				
SALES and SERVICE AIDS				
Performs "8" Point Safety Service				
Observance of Price Sales				
Oil Napkins and Dispenser				
Approved Windshield Cleaning Equip.				
Credit Card Clip Boards				
Job Tickets				
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index				
Date Book				
Follow-Up Cards				
Rubber Name Stamp				
MANAGEMENT				
Adequate Bookkeeping System				
Monthly and Daily Sales Ratios				
Stock Inventory				
Federal and State Taxes				
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis				
Prospect List				
Market Area Map and Pins				
3 x 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER

Acknowledged [illegible]

RICHFIELD REPRESENTATIVE

By [illegible]

Write on reverse side what you did to help this dealer.

816

USE IN CENTER

397– 398

FORM - 000 - 7-48

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name _____ Date _____ 19__

Street Address _____ City _____ Agency _____

SS# _____ Operating Hours _____ m. To _____ m. Last Survey Made _____ 19__

Total Sales Last Month:— Gasoline _____ Motor Oil _____ Motor Oil Ratio _____

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED				
BUILDING EXTERIOR CLEAN				
BUILDING INTERIOR CLEAN				
CONDITION of PAINT				
YARD and DRIVEWAYS				
PLANTING AREA				
ADJOINING AREA				
WINDOWS CLEAN				
WINDOW DISPLAYS SET UP				
MERCHANDISE CLEAN				
LIGHTS - Proper Size - Working				
UNAUTHORIZED SIGNS				
SIGNS CLEAN (Ridge, etc.)				
PUMPS CLEAN - Prices Posted				
FIRE EXTINGUISHERS - Filled - Tagged				
OIL DISPENSERS - Clean - Decaled				
CAN RACKS - Clean - Filled				
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed				
LUBE EQUIPMENT - Clean - Decaled				
HOIST - Clean - Working Properly				
FLOOR - Clean - Sump Working Properly				
ADEQUATE TOOLS - Well Arranged				
PROPER DISPOSAL of REFUSE				
REST ROOMS				
WALLS CLEAN				
FLOOR CLEAN				
TOILET BOWL CLEAN				
WASH BASIN CLEAN				
MIRRORS - Clean and in place				
WASTE BASKETS and Sanitary Recept.				
PAPER TOWELS				
BORAXO DISPENSER FILLED				
TOILET TISSUE				
SEAT COVERS				
COAT HOOKS				
DOORS UNLOCKED				
CHECKED EVERY HOUR				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN				
SHAVE and HAIRCUT				
AUTHORIZED JACKET				
AUTHORIZED UNIFORM				
SALES and SERVICE AIDS				
Performs "5" Point Safety Service				
Observance of Plus Sales				
Oil Napkins and Dispenser				
Approved Windshield Cleaning Equip.				
Credit Card Clip Boards				
Job Tickets				
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index				
Date Book				
Follow-Up Cards				
Rubber Name Stamp				
MANAGEMENT				
Adequate Bookkeeping System				
Monthly and Daily Sales Ratios				
Stock Inventory				
Federal and State Taxes				
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis				
Prospect List				
Market Area Map and Pins				
3 x 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER

Acknowledged _____

RICHFIELD REPRESENTATIVE

By _____

Write on reverse side what you did to help this dealer.

817

[fol. 818] DEFENDANT'S EXHIBITS A AND B

May 8, 1951.

Wm. J. DeMartini, 555 South Flower Street, Los Angeles 17, California, Madison 9-4111.
Krystal & Paradise, Robert E. Paradise, 433 South Spring Street, Los Angeles 13, California, Trinity 1317, Attorneys for Defendant.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION

Civil Action No. 6896-Y

UNITED STATES OF AMERICA, Plaintiff,

v.

RICHFIELD OIL CORPORATION, Defendant

STIPULATION RE INTRODUCTION OF CERTAIN EVIDENCE (PARAGRAPH 1 OF PLAINTIFF'S SUBPOENA DATED FEBRUARY 7, 1951)

Plaintiff and defendant by their respective counsel stipulate as follows:

1

Since March 12, 1937 to the date hereof, defendant, Richfield Oil Corporation, has used in its operations (A) leases and other forms relating to the leasing and occupancy of its L. O. Stations, and (B) sales contracts, paint contracts, leases and subleases relating to the several types of Dealer Stations. Copies of the respective forms are hereunto attached, properly identified by exhibit number.

[fol. 819] A. L. O. Stations.

The term "L. O. (leased out) Stations" as used herein refers to retail service stations owned by defendant or leased by defendant from a lessor who is a person, firm or corporation other than the operator of the station. These service stations have been leased by defendant to

operators from time to time under a written form of lease agreement designated as Form 542. The forms bearing the print dates between July of 1937 and March of 1940 contain a provision whereby said lease is made subject to termination by either party as of two specified dates during the calendar year by means of a notice in writing given thirty days prior to such dates. The dates inserted in each instance were six months apart.

The forms bearing the print date February 1941 and later print dates contain a provision to the effect that the lease is subject to termination by either party at any time by means of a twenty-four hour notice. At the time of issuance in February 1941 of the form dated February 1941, all prior Forms 542 were destroyed and all existing leases on said Forms 542 were thereupon terminated by agreement of mutual termination or by notice and were rewritten on form dated February 1941, containing the twenty-four hour termination privilege.

Used in connection with all of said Forms 542 have been forms entitled "542-A", "542-B", "542-C" and "542-D" which are exhibits designed for the purpose of indicating the real property and facilities leased thereby.

Also used from time to time in connection with said Form 542 have been Form 542-E and Form 542-F, which are in the nature of riders to be attached to said Form 542 for the purpose of amending the rentals payable thereunder.

Except as to the change above noted with respect to the term of the lease Form 542, the various reprints referred to above have been substantially the same, containing but [fol. 820] slight variations from time to time.

In December of 1945 there was issued an L. O. lease form for use in connection with large service station units designed for servicing trucks. This form bears No. 1095, print date December 1945.

Defendant has provided the following forms for use by persons applying for L. O. service stations, which forms are entitled "Dealer Franchise Application", "Application for Prospective Sublessees", "Application for Service Station Sublease", "Dealer Application" and "Application for Employment".

B. Dealer Stations.

(1) Dealer 3-C Stations (early form designated "2-B").

The term "Dealer 3-C Stations" (written on the 2-B form) as used herein relates to service stations owned by the service station dealer or leased by the service station dealer from a lessor other than defendant, which stations have thereafter been leased to defendant by written lease or by assignment of existing lease. Defendant has subleased such service stations back to the respective service station dealers and has entered into a written sales contract with each such service station dealer covering the purchase of petroleum products by the dealer from defendant. The following represent the forms used by defendant under the 3-C (2-B type) transaction:

Service Station Lease 2-B, Form SD-306—Print date March 1937.

Sublease 2-B, Form 494—Print date November 1937 (Reprint November 1940).

Consent to Assignment, Form 493-A—Print date November 1937.

Assignment of Lease, Form 493—Print date November 1937 (Reprint September 1940).

[fol. 821] Sales Contract, Form 398—Print date November 1937.

Use of the 2-B Forms of contract was discontinued in or about 1944 and as of the date hereof all have expired.

(2) Dealer 3-C Stations (later form).

The term "Dealer 3-C Stations" as used herein relates to service stations owned by the service station dealer or leased by the service station dealer from a lessor other than defendant, which stations have thereafter been leased to defendant by written lease. Defendant has subleased such service stations back to the respective service station dealers and has entered into a written sales contract with each such service station dealer covering the purchase of petroleum products by the dealer from defendant. The following

forms of contracts covering this type of transaction were first used in November of 1945:

3-C Service Station Lease, Form 362—Print date November 1945 (Reprint November 1946).
3-C Operator's Lease, Form 668—Print date November 1945 (Reprints April 1947 and September 1948).
3-C Operator's Sales Contract, Form 783—Print date November 1945 (Reprint October 1946).

The aforesaid prints of Form 783 contained a provision requiring defendant herein as seller to sell and deliver and the service station dealer to purchase and receive the dealer's entire requirements of petroleum products for resale from the service station.

In August 1948 there was printed:

3-C Operator's Sales Contract, Form 783—Print date August 1948,

[fol. 822] which had eliminated therefrom the provisions requiring the dealer to purchase his "entire requirements" of petroleum products from defendant. At the time of such print in August of 1948 all copies of the forms of 3-C Sales Contract containing the "entire requirements" provisions were destroyed and defendant immediately negotiated with all 3-C dealers to terminate the former "entire requirements" form of Sales Contracts and to execute in lieu thereof the 3-C Operator's Sales Contract Form 783, printed August 1948. As of the date hereof there are in effect only four 3-C Sales Contracts containing the "exclusive dealing" provisions.

(3) Dealer Stations.

The term "Dealer Stations" as used herein refers to those service stations operated by dealers who purchase petroleum products from defendant pursuant to written Sales Agreements and which dealers in some instances have executed written Painting Agreements with defendant. The dealer either owns the service station or leases the service station from a lessor other than defendant. The

following forms have been used with dealers coming within this category:

Sales Contract, Form 543—Bearing no print date and print date July 1937.

Sales Contract, Form 337—Bearing print date June 1938 and various print dates up to and including April 1947.

All of the above forms contain a provision that defendant herein as seller thereunder may terminate the agreement by means of a five day notice in writing.

In August 1948 there was issued:

Sales Contract—Form 337—Print date August 1948. This form contained a provision that it was subject to termination by either party on thirty days notice. At the [fol. 823] time of the issuance of this print all of the prints bearing prior dates up to and including April 1947 were destroyed.

With the issuance of said new form of Sales Contract in August 1948 there was simultaneously printed a mimeographed form designed for the purpose of amending all existing Sales Contracts so as to provide that they would thereafter be mutually terminable by either party by means of a thirty day notice in writing. Upon issuance of this form defendant immediately negotiated with the dealers to amend, by the use of this form, all existing Form 337 Sales Contracts bearing print date April 1947 or print dates prior thereto.

As a part of all Sales Contracts Forms 337, 783 and 398 there has been attached a mimeographed form designated "Schedule A" which bears reference to the aforesaid forms.

Defendant has used the following forms of contract in certain instances where defendant has painted the service station facilities of a dealer with whom defendant has executed a 337 Sales Contract:

Painting Agreement, Form 123-C—Bearing no print date and print date August 1937.

Painting Agreement, Form 59—Bearing print dates between June 1938 to and including August 1950.

2

The aforesaid Stipulation and the forms thereunto attached are stipulated to be in full compliance with the call of paragraph 1 of said Subpoena Duces Tecum dated February 7, 1951.

3

For the purpose of this case only, all of the statements hereinabove contained are stipulated to be true.

4

[fol. 824] Either party hereto may offer in evidence this Stipulation and the exhibits attached thereto.

Dated: May 3, 1951.

William C. Dixon, Special Assistant to the Attorney General, Lawrence W. Somerville, Special Attorney, Theron M. Hall, Special Attorney, Attorneys for Plaintiff, By Lawrence W. Somerville.

Wm. J. DeMartini, Krystal & Paradise, Robert E. Paradise, Attorneys for Defendant, By Wm. J. DeMartini.

RICHFIELD OIL CORPORATION

Dealer Franchise Application

Date _____

Name _____

Address _____ Phone _____

Previous Employment

Employer	Position	Period

References

Name _____ Address _____

Name _____ Address _____

Capital Assets

Name _____ Value _____

Car _____ Value _____

Current Assets _____

Liabilities

_____

_____

_____

Signed _____

406

APPLICATION FOR PROSPECTIVE SUBLESSEES

DATE 3/22/50

NAME IN FULL MARVIN I. WALLACK TELEPHONE SM 74603

ADDRESS 3866 Globe Ave, Culver City, Calif.

DATE OF BIRTH Sept. 11, 1923 MARRIED OR SINGLE Single

OCCUPATION DURING PREVIOUS YEARS				
FROM	TO	NAME OF EMPLOYER AND ADDRESS	NATURE OF POSITION	REASON FOR LEAVING
1/1/45	1/4/50	Peak Paint Store 8652 S. Broadway	Salesman + manager	Business slow
1/1/49	1/1/50	Les Tolmachoff Service Station 3rd & La Cienega	Extra Help Service Station	Extra work only

SCHOOLING: GRADE 8 YRS. HIGH 4 YRS. COLLEGE 1/2 YRS. TRAINING SCHOOL

EVER BEEN IN BUSINESS BEFORE _____ EXPLAIN _____

APPROXIMATE AMOUNT OF CAPITAL TO PUT IN BUSINESS $ _____

REFERENCES

NAME	ADDRESS AND OCCUPATION	NO. YEARS ACQUAINTED
Lester Tomlinson	6074 Alcott-Service station	10 years
Norman Rudnick	601 S. Sate. Doctor	15 years
Ed Bizon	3855 Globe Ave Salesman	

828

APPLICATION FOR SERVICE STATION SUB-LEASE

TOWN PREFERRED _____

E _____
(LAST) (FIRST) (MIDDLE)

E ADDRESS _____
(STREET) (CITY)

ONE _____ AGE _____ HEIGHT _____ WEIGHT _____

TIONALITY _____ MARRIED _____ NO. OF DEPENDENTS _____

YSICAL DEFECTS _____

UCATION _____

ME AND ADDRESS OF NEAREST RELATIVE _____

_____

ME AND LOCATION OF ANY RELATIVES EMPLOYED BY US _____

_____

RVICE STATION EXPERIENCE _____

_____

ON	TO	PREVIOUS EMPLOYMENT NAME OF EMPLOYER	ADDRESS

SH AVAILABLE _____ BANK WHERE ACCOUNT IS CARRIED _____

HER ASSETS (List Not Values, To-whit; Value Loss Encumbrances) _____

_____

_____

FERENCES (MUST BE COMMERCIAL)

1. _____ 2. _____
(NAME) (NAME)

_____ _____
(ADDRESS) (ADDRESS)

_____
(SIGNATURE OF APPLICANT)

TERVIEWER'S REMARKS
(verse side of Form)

_____
(SIGNATURE OF INTERVIEWER)

827

408

DEALER APPLICATION

NAME IN FULL _____ DATE _____

ADDRESS _____

TEL. NO. _____ WHERE BORN _____ BIRTH DATE _____

NAME, ADDRESS OF WIFE, HUSBAND, IF LIVING, OR FATHER OR MOTHER, OR NEAREST RELATIVE

NAME _____ RELATIONSHIP _____

ADDRESS _____

ANY PHYSICAL DEFECTS _____

GRADE SCHOOL _____ YRS; HIGH SCHOOL _____ HRS; COLLEGE _____ YRS. OTHER _____

FORMER EMPLOYMENT

FROM MO.& JR.	TO MO.& YR.	NAME OF EMPLOYER & SUPERVISOR	AS NATUR OF POSITION OR OCCUPATION	AT PLACE	REASON FO LEAVING

REFERENCES

NAMES AND ADDRESSES OF THREE OR MORE PERSONAL REFERENCES, PREFERABLY HOUSEHOLDERS, AND OF GOOD STANDING WHO HAVE KNOWN YOU DURING THE PAST TEN YEARS. RELATIVES OF FORMER EMPLOYERS ARE NOT TO BE LISTED.

NAME	ADDRESS AND OCCUPATION	NO OF YEARS ACQUAINTE

SIGNATURE OF APPLICANT: _____

REMARKS: _____

50-87

APPLICATION FOR EMPLOYMENT Date_____

1. Name in full_____. 2. Soc. Sec. No._____

3. Address_____

4. Tel. No._____ 5. Where born_____ 6. Birth date_____

7. Name, address of Wife, Husband, if living, or Father & Mother, or nearest relative.

Name_____ Relationship_____

Address_____

PHYSICAL CHARACTERISTICS

8. Height___ Ft.___in. 9. Weight_____lb. 10. Hair color_____. 11. Eye Color___

12. Complexion Lt.___ Med.___ Dark___ 13. Spec. marks on hands or face_____

14. Physical Defects_____

SCHOOLING & TRAINING

15. Grade School___yrs; High School___yrs; College___yrs; Other_____

16. Last School attended_____ Date of grad. or leaving_____

17. Subjects specialized in_____

ARMED SERVICE RECORD

18. From_____ to_____ Branch_____ Rank_____

Schools attended_____ Experience applicable to Service Station work_____

19. FORMER EMPLOYMENT

From Mo. & Year	To Mo. & Year	Name of Employer & Supervisor	Nature of position or occupation	Place	Reason for lvg.

20. REFERENCES

Names and addresses of three or more personal references, preferably householders, and of good standing who have known you during the past ten years. Relatives or former employers are not to be listed.

Name	Address and Occupation	Number of years Acquainted

_____
Signature of Applicant

Remarks:

410

RICHFIELD OIL CORPORATION
APPLICATION FOR EMPLOYMENT

Location_____ Date_____

IMPORTANT—Please answer every question concisely but completely. Incomplete applications cannot be considered. Applicants receiving appointments are on trial, the period of employment depending on their usefulness to the company.

FOR POSITION AS_____

GENERAL QUESTIONS

1. Name in full_____ 2. Social Security Number:_____

3. Address_____ (NUMBER, STREET, CITY OR TOWN, STATE)

4. Telephone No._____ 5. Male ☐ Female ☐

6. Married ☐ Single ☐ 7. Head of Family { Yes ☐ No. ☐ } 8. Number of Dependents_____ 9. Citizen of U.S.A. { Yes ☐ No ☐ } 10. Citizen { By Birth / Naturalized }

11. If naturalized date of First Papers_____; date of Second Papers_____ Name under

12. Where born_____ 13. Date of Birth_____ 14. Renter

15. Name and address of Wife, Husband, if living, or Father and Mother, if living, or nearest relative:

Name_____

Address_____ Relationship_____ (NUMBER, STREET, CITY OR TOWN, STATE)

16. Insurance Record: Life $_____ Health $_____ Accident $_____

17. In case of accident notify: Name_____ Telephone No._____

Address_____ Relationship_____ (NUMBER, STREET, CITY OR TOWN, STATE)

18. Names of relatives employed by the company, their position and relationship to you_____

19. Were you previously employed by this company or affiliated companies?_____ If so, where?_____

In what capacity?_____ Under supervision of_____

PHYSICAL CHARACTERISTICS

20. Height_____ Feet_____ Inches. 21. Weight_____ lbs. 22. Color of hair_____ 23. Color of eyes_____

24. Complexion: Light ☐ Medium ☐ Dark ☐ 25. Special marks on hands or face_____

26. Physical defects_____

SCHOOLING AND TRAINING

27. Schooling: Grade School____yrs.; High School____yrs.; Business College____yrs.; College____yrs.; Technical School____yrs.

28. Name of last school attended_____ Date of Graduation or leaving_____

29. Subjects specialized in_____

30. Foreign languages_____ Speak ☐ Write ☐ Fluently ☐

31. If stenographer what proficiency: Dictation_____ words per min. Transcription_____ words per

32. Accounting experience_____

33. Other office training or experience_____

830

OCCUPA..ON DURING PERIOD OF AT LEAST FIVE YEARS
WHETHER EMPLOYED OR NOT EMPLOYED

FROM	TO	IN THE SERVICE OF	AS	AT	
MONTH AND YEAR	MONTH AND YEAR	NAME OF EMPLOYER AND ADDRESS OF HEAD OFFICE	NATURE OF POSITION OR OCCUPATION	PLACE WHERE LAST EMPLOYED	REASON FOR LEAVING

6. Salary last position $_____ per _____ 16. Salary expected $_____ per _____

17. Former employers claim any unpaid balances Yes ☐ No ☐ Particulars _____

18. Application for Fidelity Bond ever been declined Yes ☐ No ☐ Particulars _____

19. Previously bonded by _____ Surety Companies

REFERENCES

20. Names and addresses of three or more personal references, preferably householders, and of good standing who have known you during the past five years. Relatives or former employers are not to be listed.

NAME	ADDRESS AND OCCUPATION	NUMBER OF YEARS ACQUAINTED

This application is submitted with the understanding that, if I enter the service of the company, I will submit to a physical examination at the company's expense.

_____
SIGNATURE OF APPLICANT

Interviewer's Remarks:

412

Defendent's Exhibit C

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name _____ Date _____

Street Address _____ City _____ Agency _____

SS# _____ Operating Hours _____ m. To _____ m. Last Survey Made _____

Total Sales Last Month:— Gasoline _____ Motor Oil _____ Motor Oil Ratio _____

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED				
BUILDING EXTERIOR CLEAN				
BUILDING INTERIOR CLEAN				
CONDITION of PAINT				
YARD and DRIVEWAYS				
PLANTING AREA				
ADJOINING AREA				
WINDOWS CLEAN				
WINDOW DISPLAYS SET UP				
MERCHANDISE CLEAN				
LIGHTS - Proper Size - Working				
UNAUTHORIZED SIGNS				
SIGNS CLEAN (Ridge, etc.)				
PUMPS CLEAN - Prices Posted				
FIRE EXTINGUISHERS - Filled - Tagged				
OIL DISPENSERS - Clean - Decaled				
CAN RACKS - Clean - Filled				
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed				
LUBE EQUIPMENT - Clean - Decaled				
HOIST - Clean - Working Properly				
FLOOR - Clean - Sump Working Properly				
ADEQUATE TOOLS - Well Arranged				
PROPER DISPOSAL of REFUSE				
REST ROOMS				
WALLS CLEAN				
FLOOR CLEAN				
TOILET BOWL CLEAN				
WASH BASIN CLEAN				
MIRRORS - Clean and in place				
WASTE BASKETS and Sanitary Recept.				
PAPER TOWELS				
BORAXO DISPENSER FILLED				
TOILET TISSUE				
SEAT COVERS				
COAT HOOKS				
DOORS UNLOCKED				
CHECKED EVERY HOUR				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN				
SHAVE and HAIRCUT				
AUTHORIZED JACKET				
AUTHORIZED UNIFORM				
SALES and SERVICE AIDS				
Performs "8" Point Safety Service				
Observance of Plus Sales				
Oil Napkins and Dispenser				
Approved Windshield Cleaning Equip.				
Credit Card Clip Boards				
Job Tickets				
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index				
Date Book				
Follow-Up Cards				
Rubber Name Stamp				
MANAGEMENT				
Adequate Bookkeeping System				
Monthly and Daily Sales Ratios				
Stock Inventory				
Federal and State Taxes				
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis				
Prospect List				
Market Area Map and Pins				
3 x 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER

Acknowledged _____

RICHFIELD REPRESENTATIVE

By _____

Write on reverse side what you did to help this dealer.

833

Defendant's Exhibit D

FORM - 285 - 1M - 3-57

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name MOHRENHAUSEN BROS Date 6/2 19 50

Street Address 153 1 - 41E City Agency FARMINGTON

Operating Hours ___ m. To ___ m. Last Survey Made 4/28 19 50

Total Sales Last Month:— Gasoline ___ Motor Oil ___ Motor Oil Ratio ___

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED	8			
BUILDING EXTERIOR CLEAN	10			
BUILDING INTERIOR CLEAN	8			
CONDITION of PAINT	10			
YARD and DRIVEWAYS	8			
PLANTING AREA GRASS + SHRUBS		7		✓
ASPHALT AREA	8			
WINDOWS CLEAN		7		✓
WINDOW DISPLAYS SET UP	9			
MERCHANDISE CLEAN	10			
LIGHTS - Proper Size - Working	10			
UNAUTHORIZED SIGNS	10			
RUGS CLEAN (Floor, etc.)	10			
RESTS CLEAN - Prices Posted	9			
FIRE EXTINGUISHERS - Filled - Tagged	10			
OIL DISPENSERS - Clean - Doorbell	9			
CAN RACKS - Clean - Filled	10			
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed	9			
LUBE EQUIPMENT - Clean - Doorbell	9			
HOIST - Clean - Working Properly	8			
FLOOR - Clean - Sump Working Properly	8			
ADEQUATE TOOLS - Well Arranged	9			
PROPER DISPOSAL of DRIPLUBE	10			
REST ROOMS				
WALLS CLEAN	8			
FLOOR CLEAN	10			
TOILET BOWL CLEAN	9			
WASH BASIN CLEAN	10			
MIRRORS - Clean and In Place	10			
WASTE BASKETS and Receptacles	9			
PAPER TOWELS	9			
SOAP DISPENSER FILLED	8			
TOILET TISSUE	8			
SEAT COVERS	10			
COAT HOOKS	10			
DOORS UNLOCKED	X			
SERVICE FOUNT DRUM				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN	10			
SHAVE and HAIRCUT	10			
AUTHORIZED JACKET				
AUTHORIZED UNIFORM		✓		
SALES and SERVICE AIDS				
Performs "9" Point Safety Service				
Observance of Price Sales				
Oil Napkins and Dispenser				
Approved Windshield Cleaning Equip.	✓			
Credit Card Clip Boards				
Job Tickets				
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index				
Date Book				
Follow-Up Cards				
Rubber Name Stamp				
MANAGEMENT				
Adequate Bookkeeping System				
Monthly and Daily Sales Report				
Stock Inventory				
Federal and State Taxes				
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis				
Prospect List				
Market Area Map and Plan				
5 a 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER

Acknowledged

RICHFIELD REPRESENTATIVE

By E. [illegible]

Make an account slide what you did to help this dealer.

833

414

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name GOLDEN HAVEN 3R65 Date 1 19

Street Address 4th + Venetia City Bakersfield Agency

SS# 9906 Operating Hours 6:40 a.m. To 9 p.m. Last Survey Made — 19

Total Sales Last Month:— Gasoline 5356 Motor Oil 49 Motor Oil Ratio 1.1%

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED	95			
BUILDING EXTERIOR CLEAN	90			
BUILDING INTERIOR CLEAN	95			
CONDITION of PAINT	95			
YARD and DRIVEWAYS	95			
PLANTING AREA	95			
ADJOINING AREA	95			
WINDOWS CLEAN	95			
WINDOW DISPLAYS SET UP	95			
MERCHANDISE CLEAN	100			
LIGHTS - Proper Size - Working	100			
UNAUTHORIZED SIGNS	95			
SIGNS CLEAN (Ridge, etc.)	100			
PUMPS CLEAN - Prices Posted	100			
FIRE EXTINGUISHERS - Filled - Tagged	100			
OIL DISPENSERS - Clean - Decaled	100			
CAN RACKS - Clean - Filled	100			
LUBE DEPARTMENT 96%				
COMPRESSOR - Clean - Oil Changed	95			
LUBE EQUIPMENT - Clean - Decaled	95			
HOIST - Clean - Working Properly	95			
FLOOR - Clean - Sump Working Properly	95			
ADEQUATE TOOLS - Well Arranged	100			
PROPER DISPOSAL of REFUSE	100			
REST ROOMS				
WALLS CLEAN	[illegible]			
FLOOR CLEAN	[illegible]			
TOILET BOWL CLEAN	[illegible]			
WASH BASIN CLEAN	[illegible]			
MIRRORS - Clean and in place	[illegible]			
WASTE BASKETS and Sanitary Receptacles	[illegible]			
PAPER TOWELS	[illegible]			
SOAP DISPENSER FILLED	[illegible]			
TOILET TISSUE	[illegible]			
SEAT COVERS	[illegible]			
COAT HOOKS	[illegible]			
DOORS UNLOCKED	[illegible]			
CHECKED EVERY HOUR	[illegible]			

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN	95			
SHAVE and HAIRCUT	[illegible]			
AUTHORIZED JACKET	[illegible]			
AUTHORIZED UNIFORM	[illegible]			
SALES and SERVICE AIDS				
Performs "8" Point Safety Service	95			
Observance of Price Signs	100			
Oil Napkins and Dispenser	0			
Approved Windshield Cleaning Equip.	90			
Credit Card Clip Boards	100			
Job Tickets	100			
Lube Procedure Charts	[illegible]			
Seat and Fender Covers	[illegible]			
Battery Service Equipment	100			
Tire Service Equipment	100			
Service Record Stickers	100			
P and C Cards - Box and Index	100			
Date Book	0			
Follow-Up Cards	0			
Rubber Name Stamp	100			
MANAGEMENT				
Adequate Bookkeeping System	100			
Monthly and Daily Sales Ratios	90			
Stock Inventory	90			
Federal and State Taxes	100			
City and County Licenses	100			
MARKET DEVELOPMENT				
Profit Analysis	25			
Market Analysis	0			
Prospect List	0			
Market Area Map and Pins	0			
3 x 5 Prospect Cards	0			
Daily Calls Made	0			
New Customers Develop	90			
Credit Card Applications	75			
Use of Company Advertising	95			
Use of Personal Advertising	95			

RICHFIELD DEALER

Acknowledged [signature]

RICHFIELD REPRESENTATIVE

By: K. A. Elsig

Write on reverse side what you did to help this dealer.

R34

[redacted] Wilson Avenue average in this mountainous [redacted] dealer inspection [redacted] arrived on [redacted] morning; dealer will install [redacted] tonight. Informed [redacted] development, dealer against calling [redacted] residents. Will keep in touch. Plan to change [redacted] hands.

K. O. Carter

Defendant's Exhibit E

Full name and address of your wife: PEARL F. HEINEKIN

If wife employed, give name and address of employer: —

What is your draft classification?

Do you own in your own name any real estate?	Conservative Value	Incumbrance	Equity
Yes	$12,500	NO ✓	$12,500
Do you own any personal property?	Conservative Value	Amount of Debts Other Than Incumbrance on Real Estate	Equity

Are you buying an automobile on the installment plan? Yes Purchase Price $3500

Amount of monthly payment? Make and Year of Model

Amount of unpaid balance 500.00 Are any payments overdue? If so, give particulars. NO.

Have you or will you have any business interest other than the Service Station to which this application applies?

Give particulars. No

Applicant sign here

Witnessed

Co-Maker's Statement

Dated at

194

I am agreeable to becoming a co-maker with the applicant in signing the note, which will evidence the loan if granted. I certify the following statements are true and complete:

NAME (print) Age Married?

Residence Address (Street and Number) (Town and State) Phone

Employed by (If in business for self, give trade name) Draft Classification

Business address (Street and Number) (Town and State) Phone

How long there What is your position Kind of business

Bank Branch Checking acc't? Savings acc't?

How long have you known applicant? Location of Real estate you own

Name in which title appears Estimated value $

Are you related to applicant?

Signature of Co-Maker

836

COPY BOUND CLOS

Form 1142 3M 7-49

F HFIELD OIL CORPORATION
LOAN AND BOND APPLICATION

Amount $ 800 00 Date 4-12-50

Bond Investigation, Lease, Check In and Service Fee $ 50 00

I hereby make application for service station lease and for loan to finance service station operation. I authorize the Company to use this application for the purpose of obtaining bond with any bonding company that they may choose for an amount not exceeding $1000.

I hereby affirm that in the following declarations made and answers given I state the truth without reservation and for the purpose of obtaining this loan and also obtaining at the Company's discretion the bond.

Give name in full ERNEST P. HEINEKIN Age

Residence Address 1627 W. YORK (Street and Number) SPOKANE, WN. (City and State)

Please fill in the following blanks, giving dates of your employment and names of your employers during the past 5 years. If not employed continually, give dates of periods of non-employment, and places of residence at such time.

FROM	TO	NAME AND ADDRESS OF EMPLOYER	Nature of Position held	Place where employed or located	Name and present address of party under whom you worked	Why did you leave?
1942	1950	SELF	S.S. OPERATOR	Spokane	—	—

If bonded in any of above positions, state which, and give name and address of company or person acting as your surety

Has your application for bond ever been declined? ____ If so, by whom? ____

Give references below. Do not name a relative or fo

NAME	OCCUPATION		OFFICE ADDRESS (or and street, if in city)
1. W.V. MOYER	DOCTOR	1	681 CENTER BLDG
2. H. LANDER	DOCTOR		" " "
3. H.C. GRENDAHL	CONTRACTOR	2	08 GARFIELD ROAD

Bank FIRST NATIONAL Branch SPOKANE

Name of father AUGUST HEINEKIN { Occupation RETIRED / Address GWINNER, N.D.

Name of mother ____ Address ____

Are YOU	Number of children	How many self-supporting and live apart from you?	How many with you?	If others depend upon you for support, give names
Single ____ Married ✓ A widow ____ Divorced ____	3		4	

(OVER)

837

SE IN CENTER

Defendent's Exhibit F

RICHFIELD OIL CORPORATION

RICHFIELD BUILDING • LOS ANGELES 13 • CALIFORNIA

August 14, 1950

Mr. George A. Bauer
2990 E. Huntington Drive
San Marino, California

Dear Sir:

Reference is made to that certain letter agreement made and entered into on the 25th day of May, 1950, by the terms of which it was agreed that you would be allowed a credit of 2.2 cents per gallon on Ethyl gasoline and 1.7 cents per gallon on Hi-Octane gasoline in order to assist you in meeting competition in the immediate vicinity of your service station. It was further agreed that you would be allowed like credit as to your gasoline inventory on hand at the time the agreement was entered into.

This is to advise that all of the terms and provisions of said letter agreement are hereby cancelled effective August 14, 1950, at 8:00 A.M. At the time of cancellation you had 0 gallons of Ethyl and 0 gallons of Hi-Octane in inventory, and the aforesaid allowance will not be granted on said gallonage and your account will be charged with said amount.

Very truly yours,

RICHFIELD OIL CORPORATION

By _____
F. L. HEVLIN
For Division Manager

ACCEPTED:

_____
George A. Bauer
2990 E. Huntington Drive
San Marino, Calif.
SS #5039-C

838

POOR

RICHFIELD OIL CORPORATION

555 WEST WASHINGTON BLVD. LOS ANGELES 15 • CALIFORNIA

May 25, 1950 - 11:45 AM
Date

Mr. George A. Bauer
2000 E. Huntington Drive
San Marino, Calif.

Dear Sir:

It is understood that gasoline is currently being sold at cut prices in the immediate vicinity of your service station. To assist you in meeting this competition we are willing to allow you to sell Ethyl gasoline at 2.2 cents per gallon below our directed minimum prices and Hi-Octane at 1.7 cents per gallon below our directed minimum prices. Commencing on the date hereof and to the extent that you sell gasoline at said reduced prices we will absorb the reduction in price to the extent of 2.2 cents thereof on Ethyl and 1.7 cents thereof on Hi-Octane. You will be billed at our present prices at time of delivery and the margin allowed you aforesaid will be paid to you or credited to your account on or before the 20th day of the next succeeding month.

As to your gasoline inventory on hand as of this date consisting of 642 gallons of Ethyl gasoline and 893 gallons of Hi-Octane gasoline, we will credit your account to the extent of 2/10 cents thereof on Ethyl gasoline and 2/10 cents thereof on Hi-Octane gasoline. This agreement cancels and supersedes all of the terms and provisions of that certain letter agreement made and entered into on the 3rd day of March, 1950, and is terminable by either party at any time by written or oral notice.

Yours very truly,

RICHFIELD OIL CORPORATION

By _____
FOR DIVISION MANAGER

ACCEPTED:

_____
Dealer
George A. Bauer

2000 E. Huntington Drive
San Marino, Calif.
SS No. 5030-C
Address of Service Station

Last delivery prior to inventory verification -
Invoice No. 82211, dated 5/17/50

50-42

839

COPY

420

DATE: March 3, 1950 HOUR 12:00

LS NO.: 5039-C

SERVICE STATION LOCATION: 2990 E. Huntington at San G

San Gabriel, Calif.

GASOLINE ON HAND:

ETHYL 1300 gallons

HI-OCTANE 672 gallons

Certified Correct:

George A Bauer
Signature of Dealer
George A. Bauer

P N Zimmerman
Signature of Richfield Representative

50' #64

840

T.P.
Colorado + San Gabriel
Pasadena 24.1
32.1

RICHFIELD OIL CORPORATION

155 WEST WASHINGTON BLVD. • LOS ANGELES 15 • CALIFORNIA

George A. Bauer
2930 E. Huntington Dr.
San Gabriel, Calif.

Date: March 3, 1950

Dear Sir:

It is understood that gasoline is currently being sold at cut prices in the immediate vicinity of your service station. To assist you in meeting this competition we are willing to allow you to sell Ethyl gasoline at 2 cents per gallon and Hi-Octane gasoline at 1½ cents per gallon below our directed minimum prices. Commencing on the date hereof and to the extent that you sell gasoline at said reduced prices we will absorb the reduction in price to the extent of 2 cents per gallon on Ethyl gasoline and 1½ cents per gallon on Hi-Octane gasoline. You will be billed at our present prices at time of delivery and the margin allowed you aforesaid will be paid to you or credited to your account on or before the 20th day of the next succeeding month. Like credit will be allowed as to your gasoline inventory on hand. This contract shall be terminable by either party at any time by written or oral notice.

RICHFIELD OIL CORPORATION
By F. L. Hevlin
F. L. HEVLIN
FOR DIVISION MANAGER

ACCEPTED:
George A. Bauer
George A. Bauer
2930 E. Huntington Dr.
San Gabriel, Calif.
Address of service station.

S. S. 2929-C

841-847

B

422

Defendent's Exhibit H-3

Form 39 1934 Ed

RICHFIELD OIL CORPORATION

PAINTING AGREEMENT

THIS AGREEMENT, made this 25th day of January, 19 51, between RICHFIELD OIL CORPORATION, herein called "Richfield", and James F. Moore herein called "Dealer",

WITNESSETH:

That WHEREAS Richfield as Seller and Dealer as Buyer have entered into a Sales Contract dated the 25th day of January, 19 51, for the term commencing on the 1st day of April, 19 51, and extending to and including the 31st day of March, 19 53, under the terms of which Dealer as Buyer thereunder agreed to purchase and receive Richfield gasolines, lubricating oils and greases for resale at Dealer's service station located at 56 N. Riverside Avenue, Medford, Oregon; and

WHEREAS Dealer desires to have the service station building at said location painted in Richfield colors and insignia and Richfield is willing, on certain conditions hereinafter set forth, to furnish, the necessary work, labor and material and to paint the aforesaid service station buildings;

NOW, THEREFORE, in consideration of the premises and of the covenants of the parties hereto, it is agreed:

1. That Dealer shall remove from the surface of the service station which is to be painted all signs and insignia, and upon completion of the painting of said service station by Richfield shall not place upon or over the painted surfaces any advertising sign, trade mark, insignia or any other matter without first procuring the consent and approval of Richfield.

2. That Richfield shall paint the aforesaid service station buildings at the above location and furnish the necessary work, labor and materials therefor at a cost of not less than $ 500.00 nor exceeding $ 750.00

3. That Dealer shall pay to Richfield, at the time of any breach of the terms of paragraph 1 of this agreement or at the time of and upon any termination by Richfield of the above mentioned Sales Contract by reason of the breach by Dealer as Buyer thereunder of any of the terms, covenants or conditions therein contained or at the time of and upon any termination by Dealer of the above mentioned Sales Contract by reason of the exercise by Dealer as Buyer thereunder of any termination privilege therein reserved other than for default of Seller, the actual sum expended by Richfield under paragraph 2 hereof, not exceeding, however, the maximum price therein set forth, together with a reasonable sum as attorney's fees in the event suit is instituted by Richfield to collect said sum, or any part thereof.

4. That in the event Dealer performs all of the terms, covenants and agreements contained in said Sales Contract above described for the full term thereof, and faithfully complies with the provisions of paragraph numbered 1 hereof, Dealer shall be under no obligation to pay the obligation set forth in paragraph numbered 3 hereof, or any part thereof; and Richfield agrees that in such event Dealer shall be discharged from said debt.

5. That Dealer, upon any expiration or sooner termination of said Sales Contract above described, shall immediately remvoe from the premises hereinabove specified all advertising, insignia, painting and/or colors indicating the dispensing or sale from said premises of Richfield products, and in the event Dealer fails so to remove said advertising, insignia, painting and/or colors within five (5) days after such expiration or sooner termination of said Sales Contract, Richfield shall have and is hereby granted the right to enter upon said premises and to repaint any buildings, pumps, tanks or other equipment thereon, to change the color or colors thereof and/or to eliminate signs and insignia therefrom and/or otherwise to remove all things which in the opinion of Richfield are indications of the sale of Richfield products thereat; and Dealer agrees to pay to Richfield on demand the entire sum so expended by Richfield in pursuance of the rights hereby granted, which said obligations of Dealer shall be in addition to that provided for in paragraph "3" hereof and shall not be discharged under the provisions of paragraph "4" hereof.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first hereinabove written.

RICHFIELD OIL CORPORATION,

By _____

James F. Moore Dealer

848

POOR

Defendent's Exhibit J

SURVEY OF SERVICE STATION OPERATIONS

Dealer's Name _____ Date _____ 19___

Street Address _____ City _____ Agency _____

Sta. 206 Operating Hours 7 a.m. To 7 p.m. Last Survey Made — 19___

Total Sales Last Month:— Gasoline [illegible] Motor Oil [illegible] Motor Oil Ratio .10

MAINTENANCE	S	U	C	TBC
MAINTENANCE SCHEDULED		✓		
BUILDING EXTERIOR CLEAN				
BUILDING INTERIOR CLEAN				
CONDITION of PAINT				
YARD and DRIVEWAYS				
PLANTING AREA				
ADJOINING AREA				
WINDOWS CLEAN	✓			
WINDOW DISPLAYS SET UP				
MERCHANDISE CLEAN		✓		
LIGHTS - Proper Size - Working				
UNAUTHORIZED SIGNS				
SIGNS CLEAN (Ridge, etc.)				
PUMPS CLEAN - Prices Posted				
FIRE EXTINGUISHERS - Filled - Tagged				
OIL DISPENSERS - Clean - Decaled	✓			
CAN RACKS - Clean - Filled	✓			
LUBE DEPARTMENT				
COMPRESSOR - Clean - Oil Changed	✓			
LUBE EQUIPMENT - Clean - Decaled	✓			
HOIST - Clean - Working Properly	✓			
FLOOR - Clean - Sump Working Properly				
ADEQUATE TOOLS - Well Arranged				
PROPER DISPOSAL of REFUSE	✓			
REST ROOMS				
WALLS CLEAN	✓			
FLOOR CLEAN		✓		
TOILET BOWL CLEAN				
WASH BASIN CLEAN				
MIRRORS - Clean and in place	✓			
WASTE BASKETS and Sanitary Receptacles	✓			
PAPER TOWELS				
BORAXO DISPENSER FILLED				
TOILET TISSUE	✓			
SEAT COVERS				
COAT HOOKS	✓			
DOORS UNLOCKED				
CHECKED EVERY HOUR				

PERSONAL APPEARANCE	S	U	C	TBC
NEAT and CLEAN	✓			
SHAVE and HAIRCUT	✓			
AUTHORIZED JACKET		✓		
AUTHORIZED UNIFORM		✓		
SALES and SERVICE AIDS				
Performs "8" Point Safety Service	✓			
Observance of Five Sales	✓			
Oil Napkins and Dispenser	✓			
Approved Windshield Cleaning Equip.	✓			
Credit Card Clip Boards				
Job Tickets	✓			
Lube Procedure Charts				
Seat and Fender Covers				
Battery Service Equipment				
Tire Service Equipment				
Service Record Stickers				
P and C Cards - Box and Index	✓			
Date Book	✓			
Follow-Up Cards	✓			
Rubber Name Stamp	✓			
MANAGEMENT				
Adequate Bookkeeping System	✓			
Monthly and Daily Sales Ratios	✓			
Stock Inventory	✓			
Federal and State Taxes	✓			
City and County Licenses				
MARKET DEVELOPMENT				
Profit Analysis				
Market Analysis	✓			
Prospect List				
Market Area Map and Pins				
3 x 5 Prospect Cards				
Daily Calls Made				
New Customers Develop				
Credit Card Applications				
Use of Company Advertising				
Use of Personal Advertising				

RICHFIELD DEALER

Acknowledged [illegible]

RICHFIELD REPRESENTATIVE

By _____

Write on reverse side what you did to help this dealer.

849

R COPY

This Dealer has been closing early the evenings & on Sunday, but his gallonage has been dropping most every month for the past four months. He is going to live a man & stay open on Sundays. This man will be given instructions as to particular maintenance jobs to be done while he is on duty. This should give us better operation all the way through.

On the outside & inside cleanliness, this should be corrected when the station is painted.

This man was at one time a S.S. salesman for the Standard Oil Co, & should know what is expected in maintenance.

Dow is a good salesman, & had the highest Oil Quota of any of our 450 Units so if he can be salvaged it will be better for all Concerned.

Very truly

J. T. Chapman

This went in process of being made up / R Henderson.

850

Defendent's Exhibit K

[redacted] OIL CORPORATION

APPLICATION FOR EMPLOYMENT

Location San Francisco Date 7/16/37

IMPORTANT—Please answer every question carefully but completely. Incomplete applications cannot be considered. Applicants receiving appointments are on trial, the period of employment depending on their usefulness to the company.

FOR POSITION AS W.C.

GENERAL QUESTIONS

1. Name in full Domenic Mario Delucchi 2. Social Security Number:
3. Address 927 Green St. San Francisco Calif.
4. Telephone No. Sutter 2-2129 5. Male ☑ Female ☐
6. Single ☐ Married ☑ 7. Head of Family Yes ☑ No ☐ 8. Dependents 3 9. Citizen of U.S.A. Yes ☑ No ☐ 10. Citizen By Birth ☑ Naturalization ☐
11. If naturalized date of First Papers: ; date of Second Papers:
12. Where born San Francisco 13. Date of Birth March 25 1917 14. Renter ☐ Home owner ☐
15. Name and address of Wife, Husband, if living, or Father and Mother, if living, or nearest relative:
Name Josephine Delucchi
Address 838 Green St. San Francisco Calif. Relationship Wife
16. Insurance Record: Life $ None Health $ Accident $
17. In case of accident notify: Name Josephine Delucchi Telephone No. PRospect 5-4188
Address 838 Green St. San Francisco Calif. Relationship Wife
18. Names of relatives employed by the company, their position and relationship to you
19. Were you previously employed by this company or affiliated companies? If so, where?
In what capacity? Under supervision of

PHYSICAL CHARACTERISTICS

20. Height 5 Feet 9 Inches 21. Weight 165 lbs. 22. Color of hair Brown 23. Color of eyes Brown
24. Complexion: Light ☐ Medium ☑ Dark ☐ 25. Special marks on hands or face Scar on right hand
26. Physical defects

SCHOOLING AND TRAINING

27. Schooling: Grade School 8 yrs.; High School 3 yrs.; Business College yrs.; College yrs.; Technical School yrs.
28. Name of last school attended Balboa High School Date of Graduation or leaving 1934
29. Subjects specialized in Shop work
30. Foreign language Italian Spanish Speak ☑ Write ☑ Fluently Yes ☑ No ☐
31. If stenographer what proficiency: Dictation words per min. Transcription words per min.
32. Accounting experience
33. Other office training or experience

851

COPY

OCCUPA... A DURING PERIOD OF AT LEAST FIV... EARS
WHETHER EMPLOYED OR NOT EMPLOYED

FROM	TO	IN THE SERVICE OF	AS	AT	
MONTH AND YEAR	MONTH AND YEAR	NAME OF EMPLOYER AND ADDRESS OF HEAD OFFICE	NATURE OF POSITION OR OCCUPATION	PLACE WHERE LAST EMPLOYED	REASON FOR LEAVING
7/41	7/47	Edmonton Transit Co. Ltd. 640 Chestnut St	Collector + Driver		Ent. USA
		Now with Army since Oct	Sch. Bus	Bay	Fabr

35. Salary last position $ 200.50 per month 36. Salary expected $ ... per ...

37. Former employers claim any unpaid balances No ☐ Yes ☐ Particulars ...

38. Application for Fidelity Bond ever been declined No ☒ Yes ☐ Particulars ...

39. Previously bonded by ... Surety Co...

REFERENCES

40. Names and addresses of three or more personal references, preferably householders, and of good standing who have known ... during the past five years. Relatives or former employers are not to be listed.

NAME	ADDRESS AND OCCUPATION	NUMBER OF YEARS ACQUAINTED
W.H. Scott	906 Fraser Ave. Edm. Mgr. Muni. Railway	2
E.K. Reynolds	2153 Scott St. Auto Parts Dealer	1
C.W. Dehne	470 Green St. Retired	19

This application is submitted with the understanding that, if I enter the service of the company, I will submit to a physical ... at the company's expense.

Edmonton Alta. Feb 19 1942
SIGNATURE OF APPLICANT

Interviewer's Remarks:

Reasonable intelligence, fair appearance, etc. Speaks English & Ukrainian. Good position. Has been in the station at Bay & Jasper and a known fact to me personally as efficient officer & sound character.

J.W. Nash
2-19-42

852

[fol. 853] DEFENDANT'S EXHIBIT L

Wm. J. DeMartini, 555 South Flower Street, Los Angeles 17, California, Madison 9-4111

Krystal & Paradise, Robert E. Paradise, 433 South Spring Street, Los Angeles 13, California, Trinity 1317, Attorneys for Defendant.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION

Civil Action No. 6896-Y

UNITED STATES OF AMERICA, Plaintiff,

v.

RICHFIELD OIL CORPORATION, Defendant

STIPULATION RE INTRODUCTION OF CERTAIN EVIDENCE (PLAINTIFF'S SUBPOENA DUCES TECUM DATED FEBRUARY 7, 1951)

Plaintiff and defendant by their respective counsel stipulate as follows:

1

Attached to this Stipulation and incorporated herein are statistical data, statements and forms of contracts contained under the following respective numbers and captions:

I. Comparison of Number of Each Type of Service Station Outlet. (Items 2, 3 and 4 of subpoena.)

II. Number of Uncontracted Retail Service Stations Handling Richfield Petroleum Products.

[fol. 854] III. Statistics Concerning Service Stations Subject to Painting Agreements. (Item 5 of subpoena.)

IV(a). Annual Volume of Gasoline by States Sold to Respective Types of Service Station Outlets. (Item 6 of subpoena.)

IV(b). Annual Volume of Gasoline by States Sold to Respective Types of Service Station Outlets. (Item 6 of subpoena.)

V. Annual Volume of Lubricating Oils and Greases by States Sold to Service Station Outlets. (Item 7 of subpoena.)

VI. Annual Shipments of Gasoline, Oils, and Greases. (Item 8 of subpoena.)

VII. Statistics Relating to Automotive Accessories Selected by Richfield for Sale at Retail Service Stations. (Item 9 of subpoena.)

VIII. Statistics Concerning Automotive Accessories Purchased by Richfield. (Item 11 of subpoena.)

IX. Annual Volume and Source of Purchases of Automotive Accessories by Richfield From Various Manufacturers. (Item 12 of subpoena.)

X. Annual Volume of Sales of Automotive Accessories by Richfield to Retail Service Stations. (Item 13 of subpoena.)

XI. Annual Volume of Sales by Richfield of Automotive Accessories to TBA Distributors. (Item 14 of subpoena.)

XII. Commissions Received by Richfield and Volume of Sales of Automotive Accessories on Which Commissions Received. (Item 15 of subpoena.)

XIII. Gross Profit of Richfield on Sales of Automotive Accessories. (Item 16 of subpoena.)

[fol. 855] XIV. Volume of Sales of Automotive Accessories by TBA Distributors to Richfield Service Stations. (Item 17 of subpoena.)

XV. Data Relating to TBA Distributors. (Items 20 and 21 of subpoena.)

XVI. Loans by Richfield to TBA Distributors. (Item 23 of subpoena.)

XVII. Official Capacity of Certain Richfield Employees or Other Representatives.

2

The statistical compilations and data contained in paragraphs I and III to XVI, inclusive, are stipulated to be in full compliance with the calls of paragraphs 2 through 9, 11 through 17, 20, 21, and 23 of the subpoena served on defendant by the Government on February 7, 1951, the applicable calls of the subpoena being indicated under the respective numbers and captions listed above.

3

For the purpose of this case only, all of the data and statements contained under the said respective numbers

and captions attached to this stipulation and incorporated herein are stipulated to be true.

4

Either party hereto may offer in evidence the data attached hereto and contained under each of said numbers and captions; provided, however, that the data contained under any respective number and caption shall be offered in evidence separately from the data contained under any of such other numbers and captions.

5

Each party hereto expressly reserves the right to object to the introduction in evidence of the data contained under each of said numbers and captions upon the sole ground of lack of relevance or materiality thereof; and excepting said objection so reserved, each of the parties hereto ex- [fol 856] pressly waives all other objections to the introduction in evidence of the data contained under any of said numbers and captions.

Dated: May 3, 1951.

William C. Dixon, Special Assistant to the Attorney General, Lawrence W. Somerville, Special Attorney, Theron M. Hall, Special Attorney, Attorneys for Plaintiff, By Lawrence W. Somerville.

Wm. J. DeMartini, Krystal & Paradise, Robert E. Paradise, Attorneys for Defendant, By Wm. J. DeMartini.

[fol. 857] DEFENDANT'S EXHIBITS M AND M-1

Wm. J. DeMartini, 555 South Flower Street, Los Angeles 13, California, TRinity 2231.

Krystal & Paradise, Robert E. Paradise, 433 South Spring Street, Los Angeles 13, California, MUtual 6171, Attorneys for Defendant.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION

Civil Action No. 6896-Y

UNITED STATES OF AMERICA, Plaintiff,

v.

RICHFIELD OIL CORPORATION, Defendant

STIPULATION RE INTRODUCTION OF CERTAIN EVIDENCE

Plaintiff and Defendant by their respective counsel stipulate as follows:

1

Attached to this Stipulation and incorporated herein is statistical data contained under the following respective numbers and captions:

I. Dates of Incorporation of Defendant and of Qualification to do Business.

II. Date of Commencement of Business by Defendant.

III. Comparison of Number of Service Station Outlets.

IV. Comparison of Volume of Gasoline Sold Through Service Station Outlets.

V. Comparison of Quantities of Gasoline Manufactured.

[fol. 858] VI. Comparison of Taxable Sales of Motor Vehicle Fuel.

VII. Number of Competing Companies in Sale of Gasoline. (Exhibit attached.)

VIII. Number of Competing Companies in Sale of Automotive Lubricating Oil. (Exhibit attached.)

IX. Comparison of Volume of Automotive Lubricating Oil (including grease) Sales.

X. Comparison of Volume of Tire Sales.

XI. Comparison of Volume of Battery Sales.

XII. Trends in (A) Population and (B) Motor Vehicle Registrations.

which said statistical data has been compiled by Defendant and examined by Plaintiff.

2

All of the data and statements contained under the said respective numbers and captions attached to this Stipulation are stipulated to be true.

3

Either party hereto may offer in evidence the data attached hereto and contained under each of said numbers and captions; provided, however, that the data contained under any respective number and caption shall be offered in evidence separately from the data contained under any of such other numbers and captions.

4

Each party hereto expressly reserves the right to object to the introduction in evidence of the data contained under each of said numbers and captions upon the sole ground of lack of relevance or materiality thereof; and excepting said objection so reserved, each of the parties hereto expressly waives all other objections to the introduction in evidence of the data contained under any of said numbers and [fol. 859] captions.

Dated: April 23rd, 1951.

William C. Dixon, Special Assistant to the Attorney General, W. Alan Thody, Special Assistant to the Attorney General, Lawrence W. Somerville, Special Attorney, Attorneys for Plaintiff, By William C. Dixon.

Wm. J. DeMartini, Krystal & Paradise, Robert E. Paradise, Attorneys for Defendant, By Wm. J. DeMartini.

[fol. 860] DEFENDANT'S EXHIBIT M-2

I

Incorporation of Defendant and Qualification to Do Business

Defendant Richfield Oil Corporation (herein referred to as "Richfield") is a corporation incorporated under the laws of Delaware on November 14, 1936, and qualified to do business in California on November 16, 1936, in Oregon on March 11, 1937, in Washington on March 11, 1937, in Nevada on May 7, 1937, in Arizona on June 21, 1937, and in Idaho on April 7, 1937.

[fol. 861] DEFENDANT'S EXHIBIT M-3

II

Commencement of Business by Defendant

Defendant did not engage in business until March 12, 1937, on which date it acquired the properties and assets of Richfield Oil Company of California, a Delaware corporation, and of Pan American Petroleum Company, a California Corporation, pursuant to a decree of the United States District Court for the Southern District of California, Central Division, in 77-B proceedings entitled "In the Matter of Richfield Oil Company of California, a corporation, Debtor, Pan American Petroleum Company, a corporation, Subsidiary, In Proceedings for the Reorganization of a corporation, No. 28700-J", in the records and files of said Court.

[fol. 862] DEFENDANT'S EXHIBIT M-4

III

Comparison of Number of Service Station Outlets
Definition of Terms

A. The term "L. O. (leased out) Stations" as used herein refers to the service stations owned by defendant

or leased by defendant from a lessor who is a person, firm or corporation other than the operator of the service station. These service stations have been leased by defendant to operators from time to time under written lease agreements each providing for termination of the lease agreement by either party thereto on twenty-four hours' notice.

B. The term "Dealer 3-C Stations" as used herein refers to those service stations operated by dealers who purchase petroleum products from defendant pursuant to written sales agreements. The dealer either owns the service station or leases the service station from a lessor other than defendant. The dealer has also leased the station to defendant by written lease; and the defendant has subleased the station to the dealer by written sublease.

C. The term "Dealer Stations" as used herein refers to those service stations operated by dealers who purchase petroleum products from defendant pursuant to written sales agreements and which dealers have in some instances executed written painting agreements with defendant. The dealer either owns the service station or leases the service station from a lessor other than defendant.

Description of Tables Attached

A. Table 1 sets forth the numbers of Richfield L. O. Stations, Dealer 3-C Stations and Dealer Stations by years in the respective states mentioned in the complaint, to wit, California, Oregon, Washington, Nevada, Arizona, and Idaho.

Note 1: Richfield does not market petroleum products in any states other than those enumerated.

[fol. 863] Note 2: The numbers of stations set forth in Table 1 are as of December 31 for each of the years enumerated.

[fol. 864]

Table I

Year	California				Oregon				Washington			
	Dealer				Dealer				Dealer			
	L. O.	3-C	Dlr.	Total	L. O.	3-C	Dlr.	Total	L. O.	3-C	Dlr.	Total
1938	769	269	218	1,256	78	80	119	277	160	159	117	436
1939	847	248	235	1,330	81	82	162	325	179	162	143	484
1940	914	207	297	1,418	145	77	111	333	219	150	130	499
1941	883	162	340	1,385	152	72	124	348	234	133	145	512
1942	724	118	254	1,096	147	60	64	271	241	118	90	449
1943	806	60	311	1,177	136	23	110	269	230	76	112	418
1944	776	26	311	1,113	127	13	126	266	205	47	141	393
1945	752	10	393	1,155	123	7	173	303	188	24	221	433
1946	744	34	467	1,245	114	23	191	328	178	52	272	502
1947	726	79	472	1,277	110	38	183	331	181	64	293	538
1948	775	109	508	1,392	118	44	202	364	197	76	309	582
1949	855	110	559	1,524	147	43	215	405	219	74	305	598
1950	870	116	695	1,681	148	45	221	414	218	80	309	607

[fol. 865]

Year	Nevada				Arizona				Idaho			
	Dealer				Dealer				Dealer			
	L. O.	3-C	Dlr.	Total	L. O.	3-C	Dlr.	Total	L. O.	3-C	Dlr.	Total
1938	12	3	6	21	83	—	96	179	1	1	—	2
1939	15	2	10	27	97	—	49	146	14	1	7	22
1940	18	1	10	29	100	—	60	160	16	1	7	24
1941	20	1	12	33	94	—	75	169	18	1	12	31
1942	18	1	9	28	68	—	48	116	17	1	10	28
1943	20	1	11	32	74	—	46	120	17	—	15	32
1944	17	1	4	22	68	—	34	102	16	—	13	29
1945	19	1	11	31	69	—	62	131	17	—	21	38
1946	18	1	9	28	64	7	82	153	17	—	25	42
1947	17	2	16	35	66	14	69	149	20	1	28	49
1948	20	3	15	38	70	19	73	162	22	1	29	52
1949	21	3	16	40	71	17	73	161	17	—	36	53
1950	21	3	22	46	70	17	74	161	16	—	40	56

Table I—(Continued)

[fol. 866]

	All States			
	Dealer			
Year	L. O.	3-C	Dlr.	Total
1938	1,103	512	556	2,171
1939	1,233	495	606	2,334
1940	1,412	436	615	2,462
1941	1,401	369	708	2,478
1942	1,215	298	475	1,988
1943	1,283	160	605	2,048
1944	1,209	87	629	1,925
1945	1,168	42	881	2,091
1946	1,135	117	1,046	2,298
1947	1,120	198	1,061	2,379
1948	1,202	252	1,136	2,590
1949	1,330	247	1,204	2,781
1950	1,343	261	1,361	2,965

[fol. 867] B. Table 2 sets forth a comparison of the numbers of Richfield L. O. Stations, Dealer 3-C Stations and Dealer Stations in the States of California, Oregon, Washington, Nevada and Arizona with the total number of service stations (of all companies) in the same states.

Note 1: Idaho is excluded from Table 2 since no statistics of the total number of service stations in Idaho are available.

Note 2: The numbers of stations set forth in Table 2 are as of December 31, 1948.

[fol. 868]

Table 2

Year	Total Service Stations (All companies)	Richfield L. O. Stations	Percentage Richfield L. O. Stations compared to total stations	Richfield Dealer 3-C Stations	Percentage Richfield Dealer 3-C Stations Compared to total Stations	Richfield Dealer Stations	Percentage Richfield Dealer Stations Compared to total Stations	Richfield L. O., Dealer 3-C and Dealer Stations	Percentage Richfield L. O., Dealer 3-C and Dealer Stations Compared to total Stations
1948.....	35,922	1,180	3.28%	251	.70%	1,107	3.08%	2,538	7.06%

[fol. 869] DEFENDANT'S EXHIBIT M-5

IV

Comparison of Volume of Gasoline Sold Through Service Station Outlets

Definition of Terms

A. The term "L. O. (leased out) Stations" as used herein refers to the service stations owned by defendant or leased by defendant from a lessor who is a person, firm or corporation other than the operator of the service station. These service stations have been leased by defendant to operators from time to time under written lease agreements each providing for termination of the lease agreement by either party thereto on twenty-four hours' notice.

B. The term "Dealer 3-C Stations" as used herein refers to those service stations operated by dealers who purchase petroleum products from defendant pursuant to written sales agreements. The dealer either owns the service station or leases the service station from a lessor other than defendant. The dealer has also leased the station to defendant by written lease; and the defendant has subleased the station to the dealer by written sublease.

C. The term "Dealer Stations" as used herein refers to those service stations operated by dealers who purchase petroleum products from defendant pursuant to written sales agreements and which dealers have in some instances executed written painting agreements with defendant. The dealer either owns the service station or leases the service station from a lessor other than defendant.

Description of Tables Attached

A. Table 3 sets forth by years a comparison of volume of gasoline (stated in thousands of gallons) sold by Richfield to L. O. Stations, Dealer 3-C Stations and Dealer Stations in the States of California, Oregon, Washington, Nevada and Arizona with the volume of gasoline (stated in thousands of gallons) sold by all companies to all service [fol. 870] stations in the same states.

Note 1: Idaho is excluded from Table 3 since no statistics of the total volume of gasoline sold to all service stations in Idaho are available.

[fol. 871]

Table 3

Year	Volume of Gasoline Sold by All Companies to All Stations	Volume of Gasoline Sold by Richfield to L. O. Stations	Percentage of Gasoline Sold by Richfield to L. O. Stations Compared to Total Volume of All Stations	Volume of Gasoline Sold by Richfield to Dealer 3-C Stations	Percentage of Gasoline Sold by Richfield to Dealer 3-C Stations Compared to Total Volume of All Stations	Volume of Gasoline Sold by Richfield to Dealer Stations	Percentage of Gasoline Sold by Richfield to Dealer Stations Compared to Total Volume of All Stations	Volume of Gasoline Sold by Richfield to L. O., Dealer 3-C and Dealer Stations	Percentage of Gasoline Sold by Richfield to L. O., Dealer 3-C and Dealer Stations Compared to Total Volume of All Stations
1938	1,837,841	75,743	4.12%	38,578	2.10%	12,166	.66%	126,487	6.88%
1939	1,781,133	83,626	4.70	34,121	1.92	17,166	.96	134,913	7.57
1940	1,894,679	93,978	4.96	31,719	1.68	21,517	1.14	147,214	7.77
1941	2,043,283	103,224	5.05	29,376	1.44	31,466	1.54	164,066	8.03
1942	1,692,902	76,769	4.53	19,834	1.17	24,182	1.43	120,785	7.13
1943	1,387,950	72,486	5.22	13,904	1.00	22,252	1.60	108,642	7.83
1944	1,365,987	71,094	5.20	6,484	.48	26,074	1.91	103,652	7.59
1945	1,800,207	96,092	5.34	4,563	.25	36,062	2.00	136,717	7.59
1946	2,587,830	122,033	4.72	6,257	.24	52,852	2.04	181,142	7.00
1947	2,866,050	119,566	4.17	11,827	.41	53,012	1.85	184,405	6.43
1948	3,017,269	123,543	4.09	17,039	.57	54,354	1.80	194,936	6.46
1949	3,102,604	141,563	4.56	19,807	.64	58,959	1.90	220,329	7.10
1950	3,251,556	159,334	4.90	20,385	.63	65,995	2.03	245,714	7.56

[fol. 872] B. Table 4 sets forth by years a comparison of volume of gasoline (stated in thousands of gallons) sold by Richfield to L. O. Stations, Dealer 3-C Stations and Dealer Stations in the States of Arizona, California, Idaho, Nevada, Oregon and Washington with the volume of taxable sales of motor vehicle fuel as reported to the aforementioned states by the companies distributing motor vehicle fuel subject to tax by such states.

[fol. 873]

Table 4

Year	Volume of Taxable Sales of Motor Vehicle Fuel by All Companies	Volume of Gasoline Sold by Richfield to L. O. Stations	Percentage of Gasoline Sold by Richfield to L. O. Stations Compared to Total Volume of Taxable Sales of Motor Vehicle Fuel	Volume of Gasoline Sold by Richfield to Dealer 3–C Stations	Percentage of Gasoline Sold by Richfield to Dealer 3–C Stations Compared to Total Volume of Taxable Sales of Motor Vehicle Fuel	Volume of Gasoline Sold by Richfield to Dealer Stations	Percentage of Gasoline Sold by Richfield to Dealer Stations Compared to Total Volume of Taxable Sales of Motor Vehicle Fuel	Volume of Gasoline Sold by Richfield to L. O., Dealer 3–C and Dealer Stations	Percentage of Gasoline Sold by Richfield to L. O., Dealer 3–C and Dealer Stations Compared to Total Volume of Taxable Sales of Motor Vehicle Fuel
1938.....	2,507,104	75,772	3.02%	38,641	1.54%	12,166	.49%	126,579	5.05%
1939.....	2,643,757	84,037	3.18	34,160	1.29	17,365	.66	135,562	5.13
1940.....	2,775,909	94,892	3.42	31,768	1.14	21,717	.78	148,377	5.34
1941.....	3,128,105	104,459	3.34	29,421	.94	31,655	1.01	165,535	5.29
1942.....	2,806,548	77,525	2.76	19,841	.71	24,506	.87	121,872	4.34
1943.....	2,418,113	73,243	3.03	13,904	.57	22,634	.94	109,781	4.54
1944.....	2,452,549	71,851	2.93	6,484	.26	26,542	1.08	104,877	4.27
1945.....	2,911,650	96,909	3.33	4,563	.16	36,814	1.26	138,286	4.75
1946.....	3,896,306	123,413	3.17	6,257	.16	53,880	1.38	183,550	4.71
1947.....	4,407,371	120,898	2.74	11,385	.26	53,954	1.22	186,237	4.22
1948.....	4,678,215	125,018	2.67	17,050	.36	55,355	1.18	197,423	4.21
1949.....	4,824,105	142,953	2.96	19,813	.41	60,219	1.25	222,985	4.62
1950.....	5,055,704	160,759	3.18	20,385	.40	67,476	1.33	248,620	4.91

[fol. 874] DEFENDANT'S EXHIBIT M-6

V

Comparison of Quantities of Gasoline Manufactured

Table 5 sets forth by years a comparison of the total quantities of gasoline manufactured by Richfield with the total quantities of gasoline manufactured by all companies in the States of California, Oregon, Washington, Nevada, Arizona and Idaho.

Note 1: Richfield has not manufactured gasoline in any state other than California; and has no refining facilities or equipment outside of the State of California.

Note 2: Gasoline has not been manufactured in the States of Oregon, Nevada or Arizona at any time during the period shown in Table 5.

Table 5

Year	Gasoline manufactured by Richfield (Bbls. per day)	Gasoline manufactured by all companies (Bbls. per day)	Richfield's Percentage of Total
1938	15,082	214,343	7.04%
1939	20,478	220,458	9.29
1940	20,771	214,113	9.70
1941	21,853	237,807	9.19
1942	20,937	238,009	8.80
1943	23,559	254,337	9.26
1944	28,282	304,578	9.29
1945	29,532	327,982	9.00
1946	26,591	303,986	8.75
1947	30,160	338,034	8.92
1948	31,103	345,199	9.01
1949	35,809	372,047	9.62
1950	43,163	386,501	11.17

[fol. 875] DEFENDANT'S EXHIBIT M-7

VI

Comparison of Taxable Sales of Motor Vehicle Fuel

Table 6 sets forth a comparison by years of the taxable sales of motor vehicle fuel as reported to the States of California, Oregon, Washington, Nevada, Arizona and Idaho by the companies distributing motor vehicle fuel subject to tax by such states.

[fol. 876]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar year 1938

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	447,514	17.9%
2	Shell Oil Company, Inc.	338,001	13.5
3	Union Oil Company of California	231,515	9.2
4	Richfield Oil Corporation	218,291	8.7
5	Tide Water Associated Oil Company	210,703	8.4
6	General Petroleum Corporation	190,128	7.6
7	The Texas Company	168,348	6.7
8	Wilshire Oil Company, Inc.	92,780	3.7
9	Hancock Oil Company	41,088	1.6
10	Mohawk Petroleum Corporation	40,762	1.6
11	Macmillan Petroleum Corporation	31,671	1.3
12	Pacific States Oil Company	27,729	1.1
	All Others	468,574	18.7
	Total	2,507,104	100.0%

Note: Figures are in thousands of gallons.

[fol. 877]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1939

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	470,152	17.8%
2	Shell Oil Company, Inc.	330,922	12.5
3	Richfield Oil Corporation	267,113	10.1
4	Union Oil Company of California	247,683	9.4
5	Tide Water Associated Oil Company	209,801	7.9
6	General Petroleum Corporation	190,515	7.2
7	The Texas Company	171,852	6.5
8	Wilshire Oil Company, Inc.	98,807	3.7
9	Mohawk Petroleum Corporation	35,022	1.3
10	The Caminol Oil Company, Ltd.	30,789	1.2
11	Macmillan Petroleum Corporation	27,749	1.1
12	Eagle Oil & Refining Company, Inc.	23,562	.9
	All Others	539,790	20.4
	Total	2,643,757	100.0%

Note: Figures are in thousands of gallons.

[fol. 878]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1940

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	506,058	18.2%
2	Shell Oil Company, Inc.	362,760	13.1
3	Richfield Oil Corporation	272,823	9.8
4	Union Oil Company of California	251,375	9.1
5	Tide Water Associated Oil Company	223,046	8.0
6	General Petroleum Corporation	194,346	7.0
7	The Texas Company	191,351	6.9
8	Wilshire Oil Company, Inc.	83,436	3.0
9	The Caminol Company, Ltd.	42,303	1.5
10	Eagle Oil & Refining Company, Inc.	37,787	1.4
11	Mohawk Petroleum Corporation	31,437	1.1
12	Gilmore Oil Company	26,122	1.0
	All Others	553,065	19.9
	Total	2,775,909	100.0%

Note: Figures are in thousands of gallons.

[fol. 879]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1941

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	642,229	20.5%
2	Shell Oil Company, Inc.	422,065	13.5
3	Union Oil Company of California	293,886	9.4
4	Richfield Oil Corporation	274,323	8.8
5	General Petroleum Corporation	235,737	7.5
6	Tide Water Associated Oil Company	230,792	7.4
7	The Texas Company	226,649	7.2
8	Wilshire Oil Company, Inc.	71,527	2.3
9	The Caminol Company, Ltd.	42,083	1.4
10	Rothschild Oil Company	41,811	1.3
11	Eagle Oil & Refining Company, Inc.	39,793	1.3
12	Macmillan Petroleum Corporation	23,953	.8
	All Others	583,257	18.6
	Total	3,128,105	100.0%

Note: Figures are in thousands of gallons.

[fol. 880]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1942

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	590,336	21.0%
2	Shell Oil Company, Inc.	363,708	12.9
3	Union Oil Company of California	260,012	9.3
4	General Petroleum Corporation	231,820	8.3
5	Tide Water Associated Oil Company	212,938	7.6
6	Richfield Oil Corporation	208,753	7.4
7	The Texas Company	193,933	6.9
8	Wilshire Oil Company, Inc.	61,356	2.2
9	Douglas Oil & Refining Company	57,695	2.1
10	Rothschild Oil Company	43,986	1.6
11	Mohawk Petroleum Corporation	40,141	1.4
12	The Caminol Company, Ltd.	38,513	1.4
	All Others	503,357	17.9
	Total	2,806,548	100.0%

Note: Figures are in thousands of gallons.

[fol. 881]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1943

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	525,432	21.7%
2	Shell Oil Company, Inc.	329,838	13.6
3	Union Oil Company of California	230,295	9.5
4	Richfield Oil Corporation	190,771	7.9
5	Tide Water Associated Oil Company	177,818	7.4
6	General Petroleum Corporation	173,939	7.2
7	The Texas Company	171,090	7.1
8	Wilshire Oil Company, Inc.	74,583	3.1
9	Gilmore Oil Company	59,867	2.5
10	Rothschild Oil Company	30,950	1.3
11	The Caminol Oil Company, Ltd.	28,098	1.2
12	Mohawk Petroleum Corporation	27,322	1.1
	All Others	398,110	16.4
	Total	2,418,113	100.0%

Note: Figures are in thousands of gallons.

[fol. 882]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1944

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	530,936	21.7%
2	Shell Oil Company, Inc.	316,060	12.9
3	Union Oil Company of California	244,691	10.
4	Tide Water Associated Oil Company	184,817	7.5
5	Richfield Oil Corporation	182,311	7.4
6	General Petroleum Corporation	172,661	7.0
7	The Texas Company	163,848	6.7
8	Gilmore Oil Company	90,437	3.7
9	Wilshire Oil Company, Inc.	65,396	2.7
10	Seaside Oil Company	33,172	1.4
11	Mohawk Petroleum Corporation	32,771	1.3
12	Rothschild Oil Company	32,325	1.3
	All Others	403,124	16.4
	Total	2,452,549	100.0%

Note: Figures are in thousands of gallons.

[fol. 883]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1945

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	656,916	22.6%
2	Shell Oil Company, Inc.	361,306	12.4
3	Union Oil Company of California	316,818	10.8
4	General Petroleum Corporation	304,383	10.5
5	The Texas Company	220,899	7.6
6	Richfield Oil Corporation	210,255	7.2
7	Tide Water Associated Oil Company	207,762	7.1
8	Wilshire Oil Company, Inc.	71,742	2.5
9	Seaside Oil Company	36,464	1.3
10	Hancock Oil Company	31,865	1.1
11	Mohawk Petroleum Corporation	29,464	1.0
12	The Caminol Company, Ltd.	26,113	.9
	All Others	437,663	15.0
	Total	2,911,650	100.0%

Note: Figures are in thousands of gallons.

[fol. 884]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1946

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	943,781	24.2%
2	Shell Oil Company, Inc.	479,281	12.3
3	General Petroleum Corporation	452,971	11.6
4	Union Oil Company of California	421,514	10.8
5	The Texas Company	333,184	8.6
6	Richfield Oil Corporation	277,727	7.1
7	Tide Water Associated Oil Company	270,125	6.9
8	Wilshire Oil Company, Inc.	57,890	1.5
9	Seaside Oil Company	48,068	1.2
10	Krieger Oil Company	39,526	1.0
11	Hancock Oil Company	37,260	1.0
12	Mohawk Petroleum Corporation	34,190	.9
	All Others	500,789	12.9
	Total	3,896,306	100.0%

Note: Figures are in thousands of gallons.

[fol. 885]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1947

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	1,053,684	23.9%
2	General Petroleum Corporation	528,291	11.9
3	Shell Oil Company, Inc.	510,757	11.6
4	Union Oil Company of California	489,145	11.1
5	The Texas Company	372,578	8.5
6	Tide Water Associated Oil Company	302,312	6.9
7	Richfield Oil Corporation	289,444	6.6
8	Hancock Oil Company	63,609	1.4
9	Signal Oil Company	60,260	1.4
10	Wilshire Oil Company, Inc.	55,617	1.3
11	Seaside Oil Company	54,146	1.2
12	Douglas Oil Company	44,183	1.0
	All Others	583,345	13.2
	Total	4,407,371	100.0%

Note: Figures are in thousands of gallons.

[fol. 886]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1948

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	1,006,510	21.5%
2	General Petroleum Corporation	566,283	12.1
3	Shell Oil Company, Inc.	531,154	11.3
4	Union Oil Company of California	501,758	10.7
5	The Texas Company	376,006	8.0
6	Tide Water Associated Oil Company	321,363	6.9
7	Richfield Oil Corporation	308,929	6.6
8	Signal Oil Company	158,895	3.4
9	Hancock Oil Company	89,420	1.9
10	Wilshire Oil Company, Inc.	61,210	1.3
11	Seaside Oil Company	57,232	1.2
12	Douglas Oil Company	44,048	.9
	All Others	664,407	14.2
	Total	4,678,215	100.0%

Note: Figures are in thousands of gallons.

[fol. 887]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1949

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	977,810	20.3%
2	General Petroleum Corporation	549,994	11.4
3	Shell Oil Company, Inc.	541,319	11.2
4	Union Oil Company of California	514,634	10.7
5	The Texas Company	372,720	7.7
6	Richfield Oil Corporation	340,991	7.1
7	Tide Water Associated Oil Company	326,078	6.8
8	Signal Oil Company	158,687	3.3
9	Hancock Oil Company of California	100,589	2.0
10	Wilshire Oil Company, Inc.	83,348	1.7
11	Seaside Oil Company	59,302	1.2
12	The Norwalk Company	53,120	1.1
	All Others	583,345	15.5
	Total	4,824,105	100.0%

Note: Figures are in thousands of gallons.

[fol. 888]

Table 6

Statement of Taxable Motor Fuel Sales
(California, Oregon, Washington, Idaho, Nevada and Arizona)

Calendar Year 1950

Position in Volume	Name of Company	Total Taxable Motor Fuel Sales, Gallons	Percent to Total
1	Standard Oil Company of California	957,832	18.9%
2	Shell Oil Company, Inc.	602,212	11.9
3	Union Oil Company of California	552,253	10.9
4	General Petroleum Corporation	549,620	10.9
5	The Texas Company	399,345	7.9
6	Richfield Oil Corporation	370,890	7.3
7	Tide Water Associated Oil Company	325,216	6.4
8	Signal Oil Company	165,678	3.3
9	Hancock Oil Company of California	119,790	2.4
10	Wilshire Oil Company, Inc.	103,367	2.1
11	Sunset Oil Company	79,921	1.6
12	Seaside Oil Company	65,902	1.3
	All Others	763,678	15.1
	Total	5,055,704	100.0%

Note: Figures are in thousands of gallons.

[fol. 889] VII

Number of Competing Companies in Sale of Gasoline

Table 7 sets forth by years the numbers of companies marketing to service station dealers, in excess of one million *taxable* gallons of gasoline per year in the six states in which Richfield markets gasoline, to wit, California, Oregon, Washington, Arizona, Nevada, and Idaho.

Note 1: Table 7 excludes the numbers of companies marketing in excess of one million gallons of gasoline per year in said states whose gasoline for distribution is purchased tax paid by such companies.

Table 7

Year	Number of Companies
1938	67
1939	70
1940	77
1941	74
1942	66
1943	60
1944	57
1945	61
1946	62
1947	66
1948	76
1949	69
1950	68

Attached to this stipulation marked Exhibit "A" hereto and incorporated herein by reference are lists for each of the years 1938 to 1950 separately of the names of the companies tabulated in Table 7.

[fol. 890]

Exhibit "A"

Motor Fuel Sales in Excess of One Million Net Taxable Gallons Per Year for the States of California, Arizona, Oregon, Washington, Nevada and Idaho

Company	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950
Allied Oil Co., Inc.											x	x	x
Andrews & Davis (Comet Oil)			x	x	x								
Arizona Oil Co.	x	x	x	x					x	x			
Aromalene, Inc.	x	x	x										
Bachmann Petroleum Corp.	x												
Bell Oil & Ref. Co.				x	x	x	x	x	x				
Ben Hur Refining Co.									x	x		x	x
Big West Oil Co.											x	x	x
Blue Bell Oil (Bennion)										x	x	x	x
Brown, Henry (Operator's Oil & Ref. Co.)	x	x	x	x	x	x	x	x					
Bush Co., R. R.	x	x	x										
Calstate Refining Corp.							x	x	x	x	x	x	x
Camas Oil Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Caminol Co., Ltd., The	x	x	x	x	x	x	x	x	x	x	x	x	x
[fol. 891]													
Cardinal, Joe									x	x	x	x	x
Carter Oil Co.							x	x	x	x	x	x	x
Central Ariz. Pet.											x	x	x
Century Oil Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Chief Pet. Co., Inc.									x	x			
Clack Co., H. Earl		x	x	x	x	x	x	x	x	x	x	x	x
Clipper Oil Co.											x		
Continental Oil Co.	x	x	x	x	x	x	x	x			x	x	x
Cook Oil Co.												x	x
Cooperative Oil Assn.	x	x	x	x	x	x	x	x	x	x	x	x	x
Coolen Pet. Corp.				x									
Cruzen Oil Co.													x

Davidson's Service										X	X	X		
Del Valle Gasoline Co.								X	X	X	X			
Douglas Oil Co. (Krieger)	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Eagle Oil & Ref. Co.	X	X	X	X	X	X	X	X	X	X		X	X	
[fol. 892]														
East West Refining Co.	X	X	X											
Edington Oil & Ref. Co.	X													
El Camino Ref. Co.	X	X	X	X	X									
El Tejon Oil & Ref. Co.	X	X	X	X	X	X								
Envoy Petroleum Co.	X	X	X	X	X	X	X				X		X	
Estado Pet. Corp., Ltd.	X	X	X											
Exeter Refining Co.	X	X	X	X	X	X	X		X	X				
Farmers Indep. Oil Co.				X	X	X								
Farmer's Oil Co.	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Five C Refining Co.	X		X	X	X	X	X	X	X		X			X
Fletcher Oil Co., Inc.	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Gardner Oil Co.						X	X	X	X	X	X	X	X	X
General Petroleum Corp.	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Gilmore Oil Co.	X	X	X	X	X	X	X	X						
Goar Storage											X	X	X	X
Goodman Oil Co.	X	X	X	X	X	X	X	X	X	X	X	X	X	X
[fol. 893]														
Hancock Oil of Calif.	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Harbor Refining Co.	X	X	X	X										
Harris Petroleum Corp.												X		
Idaho Refining Co.	X	X	X	X	X	X	X	X	X	X	X			
Independent Pet. Co.	X	X	X	X										
Inland Empire Ref.	X	X	X	X	X	X	X	X	X	X	X	X		
Jobbers Petroleum Sales	X	X	X	X										
Kelly Oil Co.													X	X
Los Nietos Co.	X	X	X	X	X	X				X	X			
MacMillan Petroleum Corp.	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Mangold & Tweedy		X	X	X										

Exhibit "A"

Company	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950
Martin, C. M.	x	x	x	x	x	x	x						
Maxwell Petroleum Corp.	x	x	x	x	x	x							
McCallen Refining Co.	x	x	x	x	x	x		x		x	x	x	x
McNutt Oil & Ref. Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Mercury Petroleum Corp.	x	x	x	x									
[fol. 894]													
Moffett, J. O. (San Fernando Ref. Co.)	x	x	x	x	x								
Mohawk Petroleum Corp.	x	x	x	x	x	x	x	x	x	x	x	x	x
Montana Headlight Oil Co.					x								
Newhall Refining Co.						x	x	x	x	x	x		x
Northwest Oil Co., Inc.	x	x	x	x	x	x	x	x	x	x	x	x	x
Norwalk Co., The	x	x	x	x	x	x	x	x	x	x	x	x	x
Ohio Oil Co.										x	x		
Olympic Pet. & Equip. Co.											x	x	x
Olympic Refining Co.	x	x	x	x									
Pacific Central Refinery			x	x	x								
Pacific States Oil Co.	x	x	x	x	x								
Pacific Supply Co-op.		x	x	x	x	x	x	x	x	x	x	x	x
Pathfinder Petroleum Co.			x	x	x			x		x	x	x	
Perkins Oil Co.											x	x	x
Petrol Corporation, The	x	x	x	x	x	x	x	x	x	x	x	x	x
Petrolane, Ltd.	x	x	x	x					x	x	x	x	x
[fol. 895]													
Phillips Petroleum Co.												x	x
R and V Oil Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Richfield Oil Corporation	x	x	x	x	x	x	x	x	x	x	x	x	x
Rothschild Oil Company	x	x	x	x	x	x	x	x	x	x	x	x	x
Sahuaro Petroleum Prod.			x	x	x	x	x	x	x	x	x	x	
St. Helens Pet. Co., Ltd. (Kern Oil Co.)	x	x	x										

Seaboard Oil Co. of Del.										x	x	x	x
Seaside Oil Company	x	x	x	x	x	x	x	x	x	x	x	x	x
Shell Oil Co., Inc.	x	x	x	x	x	x	x	x	x	x	x	x	x
Signal Oil Company	x	x	x	x	x	x	x	x	x	x	x	x	x
Signal Oil & Gas Co.								x	x	x	x	x	x
Sinclair Refining Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Socal Oil & Refining Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Southern Oil Co.				x				x			x	x	x
Southwest Co-op Wholesale												x	x
Standard Oil Co. of Calif.	x	x	x	x	x	x	x	x	x	x	x	x	x
[fol. 896]													
Steiner, Fred (Elm Oil Co., Ltd.)	x	x	x	x	x	x	x	x	x		x	x	x
Sun Valley Pet. Co.								x	x	x	x	x	x
Sunland Refining Corp.									x	x	x	x	
Sunray Oil Corp.		x	x	x	x	x	x	x	x		x		
Sunset Oil & Gas Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Sunset Oil Company													x
Supreme Oil Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Texas Co., The	x	x	x	x	x	x	x	x	x	x	x	x	x
Texas Ind. Oil Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Tide Water Asso. Oil Co.		x	x		x	x	x	x	x	x	x	x	x
Tiernan'Ref. Co.											x	x	x
Time Oil Co.	x	x	x	x	x	x	x	x			x	x	x
Triangle Oil & Ref. Co.		x	x	x	x	x	x	x	x	x	x	x	x
True's Oil Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Union Oil Co. of Calif.	x	x	x	x	x	x	x	x	x	x	x		
United Oil of Utah													
[fol. 897]													
Utah Oil & Refining Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Wasatch Oil Co.											x	x	
Wescott Oil Co.	x	x	x	x	x	x	x	x	x	x	x	x	x
Western Gulf Oil Co.									x	x	x	x	
Whiting Brothers			x	x	x			x	x	x	x	x	x
Wilshire Oil Co., Inc.	x	x	x	x	x	x	x	x	x	x	x	x	x
Totals	67	70	77	74	66	60	57	61	62	66	76	69	68

[fol. 898] DEFENDANT'S EXHIBIT M-9

VIII

Number of Competing Companies in Sale of Automotive Lubricating Oil

Table 8 sets forth by years the numbers of companies marketing to service station dealers their own brand or brands of automotive lubricating oil either manufactured or purchased by such companies in the States mentioned in the Complaint.

Note 1: Table 8 excludes the numbers of companies, both jobbers, distributors and wholesalers, marketing to service station dealers one or more of the brands of lubricating oil marketed by any of the companies tabulated in Table 8.

Note 2: No authoritative data is available for years prior to 1946.

Table 8

Year	Number of Companies
1946	100
1947	100
1948	101
1949	121
1950	121

Attached to this stipulation marked Exhibit "A" hereto and incorporated herein by reference is a list for the years 1946 to 1950, inclusive, of the names of the companies tabulated in Table 8.

[fol. 899] EXHIBIT "A"

(2) AAA Products
(2) Adlube Oil Company
Alemite Corporation
Airways Oil Company
All-Lube Corporation
Bareco Oil Company
Barkow Petroleum Company
Battenfeld
Ben Hur Refining Corporation
Big West Oil Company of Montana

(2) Brassfield and Company, Inc.
Caminol Company
Carter Oil Company
Cato Oil Company
Century Oil Company
Clack Company, H. Earl
Coast Oil Company
Continental Oil Company
Cooperative Oil Association
Culley-Consumers Coop.
Dacus Oil Company
Douglas Oil and Refining Company
Eagle Oil and Refining Company, Inc.
(2) E. J. DeSemple and Company
Exeter Refining Company
(2) Far-Best Corporation
Farmers Oil Company
(3) Ferrar Company
Fisk Brothers
Fletcher Oil Compa
(2) Fred Meyers, Inc.
Freedom Valvoline Company
Gardner Oil Company
Globe Grease and Manufacturing Company
General Petroleum Corporation
Golden Bear Oil Company
Golden State Oil Company
Hadley Products, Inc.
Hancock Oil Company of California
Harbor Refining Company
Hercules Oil Company
Hollunshead, R. N., Corporation
Houghton, E. F. and Company
Humes Refining Company
(2) Hydrotex (Lubricants)
Hyvis Oil Company
Idaho Refining Company
Kendall Oil Company
Kern Oil Company
Keystone Lub. Company
Langley Oil Company

(2) Life-Lube Oil Corp.
MacMillan Petroleum Corporation
Master Lub. Company
(2) McClure, Dist. Company (Bardahl)
Mission Oil Company
M. K. Oil Company
Mohawk Petroleum Corporation
Montgomery, Ward and Company
(2) National Carbon Corp. (Prestone M. O.)
(2) National Oil Company
[fol. 900] Navy Oil Company
Northwest Oil Company
Norwalk Company
(2) Nu-Way Oil Company
Olympic Petroleum and Equip.
Pacific Oil Sales
(2) Pacific Products Corp.
(2) Panther Oil and Grease Mfg. Company
Paramount Oil Company
Para-Penn Oil Company
Pennant Oil and Grease Company
Pennzoil Company
(2) Perkins Oil Company
Petrol Corporation
Petroleum Products Company
(2) Phillips Petroleum Company
Pow-R-Flo (Gardner Dist. Company)
Pyro Penn Products Company
Quaker State Oil Company
Rasmussen Oil Company
Ray Brothers
Refiners' Marketing
(1) Refinol Company
Richfield Oil Corporation
Rothschild Oil Company
Ryt Oil Company
Sears-Roebuck and Company
Seaside Oil Company
Shell Oil Company, Inc.
Signal Oil Company
Sinclair Refining Company

(2) Smith-Allen Company
(2) Spotoil Distributing, Inc.
Standard Oil Company of California
Stewart, D. A. Company
Sunland Refining Corporation
Sunset Oil Company
Sunset-Fisch Corp.
Superior Refineries
The Lubrico Company of Phila.
The Texas Company
Tide-Water Associated Oil Company
Time Oil Company
Tokay Oil Company
(2) Tri-State Motor Oil
True's Oil Company
Union Oil Company of California
Union Supply Company
United Oil Company
United Oil of Idaho
Utah Oil Refining Company
Valvoline Oil Company
Vulcan Petroleum Company
Wasatch Dixie Oil Company
Wasatch Oil Refining Company
Western Auto Supply Company
West Point Oil Company (LA)
Wilshire Oil Company
Withrow, A. C.
[fol. 901] (2) Wynnoil Company
(2) Wypenn Oil Company

Note: (1) This company was organized in September of 1948. (2) These companies came into existence in 1949. (3) This company renamed Far-Best Corporation in 1949. (4) All of the other companies listed were in business during the years 1946, 1947, 1948, 1949 and 1950.

[fol. 902] DEFENDANT'S EXHIBIT M-10

IX

Comparison of Volume of Automotive Lubricating Oil (Including Grease) Sales

Table 9 sets forth by years a comparison of the volume of automotive lubricating oil (including grease) sold by Richfield to service stations in the States of Arizona, California, Idaho, Nevada, Oregon and Washington, with the total volume of automotive lubricating oil (including grease) sold by all companies in the same states.

Table 9

Year	Volume of Lube Oil (Gallons) Sold by All Companies	Volume of Lube Oil (Gallons) Sold by Richfield	Percentage of Lube Oil Sold By Richfield Compared to Total Lube Oil Sales
1938	57,288,420	2,647,424	4.62
1939	58,223,690	2,858,290	4.91
1940	58,791,556	3,010,117	5.12
1941	67,516,829	3,273,003	4.85
1942	69,770,268	2,114,341	3.03
1943	67,331,081	1,751,520	2.60
1944	76,336,831	2,021,113	2.65
1945	96,761,247	2,916,740	3.01
1946	118,676,035	3,056,353	2.58
1947	135,642,780	3,241,263	2.39
1948	Not Available	3,173,161	
1949	Not Available	3,290,870	
1950	Not Available	3,491,369	

[fol. 903] DEFENDANT'S EXHIBIT M-11

X

Comparison of Volume of Tire Sales

Definition of Terms

A. The term "L. O. (leased out) Stations" as used herein refers to the service stations owned by defendant or leased by defendant from a lessor who is a person, firm or corporation other than the operator of the service station. These service stations have been leased by defendant to operators from time to time under written lease agreements each pro-

viding for termination of the lease agreement by either party thereto on twenty-four hours' notice.

B. The term "Dealer 3-C Stations" as used herein refers to those service stations operated by dealers who purchase petroleum products from defendant pursuant to written sales agreements. The dealer either owns the service station or leases the service station from a lessor other than defendant. The dealer has also leased the station to defendant by written lease; and the defendant has subleased the station to the dealer by written sublease.

C. The term "Dealer Stations" as used herein refers to those service stations operated by dealers who purchase petroleum products from defendant pursuant to written sales agreements and which dealers have in some instances executed written painting agreements with defendant. The dealer either owns the service station or leases the service station from a lessor other than defendant.

D. The term "T. B. A. Distributors" as used herein refers to distributors of automotive accessories who sell the same both to operators of service stations handling and selling defendant's petroleum products and also to operators of service stations not handling or selling defendant's petroleum products.

Description of Tables Attached

A. Table 10 sets forth by years a comparison of the [fol. 904] volume of tires sold to Richfield L. O. Stations, Dealer 3-C Stations and Dealer Stations in the States of California, Oregon, Washington, Arizona, Nevada and Idaho with the total volume of tires sold in such states.

Note 1: Industry statistics (total volume of tires sold) exclude tires sold for installation on new or original equipment; and accordingly, all statistics in Table 10 relate to tire replacement sales only.

Note 2: Except in a few instances (involving less than 3% of the total volume of tires sold) Richfield has not sold tires directly to the operators or dealers of service stations, either L. O. Stations, Dealer 3-C Stations or Dealer Stations during the years shown in Table 10. In the great majority of instances (involving more than 97% of the total

volume of tires sold) the volume of tires set forth in Table 10 were sold by Richfield to "T. B. A. distributors".

In making this stipulation Richfield has informed plaintiff United States that the volume of tires so sold by Richfield to T. B. A. distributors has been resold by T. B. A. distributors to various service stations including not only Richfield L. O. Stations, Dealer 3-C Stations and Dealer Stations but also service stations not handling or dispensing any Richfield petroleum products.

No records are available to Richfield which will disclose the exact breakdown between the number of tires sold by said T. B. A. distributors to (a) L. O. Stations, Dealer 3-C Stations and Dealer Stations and (b) service stations not handling Richfield petroleum products; but Richfield has [fol. 905] informed plaintiff United States that the T. B. A. distributors have advised Richfield that in their opinion in excess of 30% of tires sold by T. B. A. distributors were sold to service stations not handling Richfield petroleum products.

Accordingly, the volume of tires sold to Richfield L. O. Stations, Dealer 3-C Stations and Dealer Stations as set forth in Table 10 has been computed by elimination from the number of tires sold by Richfield to T. B. A. distributors of the portion thereof (30%) which the T. B. A. distributors have advised Richfield were sold by T. B. A. distributors to service stations not handling Richfield petroleum products.

Note 3: Table 10 relates to the period from 1944 to 1950, inclusive, since Richfield has no records for years prior to 1944 of the total number of tires sold by Richfield either to service stations or "T. B. A. distributors".

Table 10

Year	Total Tires Sold	Tires Sold to L. O. Stations, Dealer 3-C Stations and Dealer Stations	Percentage of Tires Sold to L. O. Stations, Dealer 3-C Stations and Dealer Stations Compared with Total Tires Sold
1944.....	3,624,770	31,435	.87%
1945.....	5,026,726	42,237	.84%
1946.....	8,854,306	72,596	.84%
1947.....	8,691,398	88,033	1.02%
1948.....	Not Available	92,833	
1949.....	Not Available	51,554	
1950.....	Not Available	52,976	

[fol. 906] DEFENDANT'S EXHIBIT M-12

XI

Comparison of Volume of Battery Sales

Definition of Terms

A. The term "L. O. (leased out) Stations" as used herein refers to the service stations owned by defendant or leased by defendant from a lessor who is a person, firm or corporation other than the operator of the service station. These service stations have been leased by defendant to operators from time to time under written lease agreements each providing for termination of the lease agreement by either party thereto on twenty-four hours' notice.

B. The term "Dealer 3-C Stations" as used herein refers to those service stations operated by dealers who purchase petroleum products from defendant pursuant to written sales agreements. The dealer either owns the service station or leases the service station from a lessor other than defendant. The dealer has also leased the station to defendant by written lease; and the defendant has subleased the station to the dealer by written sublease.

C. The term "Dealer Stations" as used herein refers to those service stations operated by dealers who purchase petroleum products from defendant pursuant to written sales agreements and which dealers have in some instances executed written painting agreements with defendant. The dealer either owns the service station or leases the service station from a lessor other than defendant.

D. The term "T. B. A. Distributors" as used herein refers to distributors of automotive accessories who sell the same both to operators of service stations handling and selling defendant's petroleum products and also to operators of service stations not handling or selling defendant's petroleum products.

Description of Tables Attached

A. Table 11 sets forth by years a comparison of the [fol. 907] volume of batteries sold to Richfield L. O. Stations, Dealer 3-C Stations and Dealer Stations in the States

of California, Oregon, Washington, Arizona, Nevada and Idaho with the total volume of batteries sold in such states.

Note 1: Industry statistics (total volume of batteries sold) exclude batteries sold for installation on new or original equipment; and accordingly, all statistics in Table 11 relate to battery replacement sales only.

Note 2: Except in a few instances (involving less than 3% of the total volume of batteries sold) Richfield has not sold batteries directly to the operators or dealers of service stations, either L. O. Stations, Dealer 3-C Stations or Dealer Stations during the years shown in Table 11. In the great majority of instances (involving more than 97% of the total volume of batteries sold) the volume of batteries set forth in Table 11 was sold by Richfield to "T. B. A. distributors".

In making this stipulation Richfield has informed plaintiff United States that the volume of batteries so sold by Richfield to T. B. A. distributors has been resold by T. B. A. distributors to various service stations including not only Richfield L. O. Stations, Dealer 3-C Stations and Dealer Stations but also service stations not handling or dispensing any Richfield petroleum products.

No records are available to Richfield which will disclose the exact breakdown between the number of batteries sold by said T. B. A. distributors to (a) L. O. Stations, Dealer 3-C Stations and Dealer Stations and (b) service stations not handling Richfield petroleum products; but Richfield [fol. 908] has informed plaintiff United States that the T. B. A. distributors have advised Richfield that in their opinion in excess of 30% of batteries sold by T. B. A. distributors were sold to service stations not handling Richfield petroleum products.

Accordingly, the volume of batteries sold to Richfield L. O. Stations, Dealer 3-C Stations and Dealer Stations as set forth in Table 11 has been computed by elimination from the number of batteries sold by Richfield to T. B. A. distributors of the portion thereof (30%) which the T. B. A. distributors have advised Richfield were sold by T. B. A. distributors to service stations not handling Richfield petroleum products.

Note 3: Table 11 relates to the period from 1944 to 1950, inclusive, since Richfield has no records for years prior to 1944 of the total number of batteries sold by Richfield either to service stations or "T. B. A. distributors".

Table 11

Year	Total Batteries Sold	Batteries Sold to L. O. Stations, Dealer 3-C Stations and Dealer Stations	Percentage of Batteries Sold to L. O. Stations, Dealer 3-C Stations and Dealer Stations Compared with Total Batteries Sold
1944	2,624,491	51,392	1.95%
1945	2,419,768	36,137	1.49%
1946	2,368,974	35,867	1.51%
1947	3,377,746	43,028	1.27%
1948	Not Available	43,235	
1949	Not Available	16,528	
1950	Not Available	18,056	

[fol. 909] DEFENDANT'S EXHIBIT M-13

XII

Trends in (A) Population and (B) Motor Vehicle Registrations

A. Table 12 sets forth by years the populations of the States of California, Oregon, Washington, Nevada, Arizona and Idaho.

[fol. 910]

Table 12

Year	California	Oregon	Washington	Nevada	Arizona	Idaho
1938	6,656,000	1,067,000	1,698,000	105,000	466,000	513,000
1939	6,785,000	1,081,000	1,715,000	107,000	484,000	521,000
1940	6,907,387	1,089,684	1,736,191	110,247	499,261	524,873
1941	7,371,000	1,139,000	1,820,000	117,000	532,000	539,000
1942	7,862,000	1,160,000	1,920,000	131,000	595,000	523,000
1943	8,468,000	1,236,000	2,033,000	143,000	702,000	498,000
1944	8,697,000	1,305,000	2,100,000	144,000	598,000	559,000
1945	9,073,000	1,311,000	2,175,000	140,000	570,000	522,000
1946	9,471,000	1,434,000	2,293,000	133,000	596,000	524,000
1947	9,812,000	1,545,000	2,357,000	139,000	644,000	525,000
1948	10,031,000	1,626,000	2,487,000	142,000	664,000	530,000
1949	10,665,000	1,736,000	2,582,000	174,000	745,000	592,000
1950	10,586,223	1,521,341	2,378,963	160,083	749,587	588,637
% Increase since 1938	59.0%	42.6%	40.1%	52.5%	60.9%	14.7%

[fol. 911] B. Table 13 sets forth by years motor vehicle registrations in the States of California, Oregon, Washington, Nevada, Arizona, and Idaho.

[fol. 912] Table 13

Year	California	Oregon	Washington	Nevada	Arizona	Idaho
1941.....	2,962,222	429,440	617,030	48,160	144,401	171,031
1942.....	2,907,001	417,566	610,309	50,406	141,005	157,106
1943.....	2,749,720	408,412	596,585	50,398	136,543	148,846
1944.....	2,780,051	410,633	603,281	46,781	137,231	147,563
1945.....	2,893,559	421,387	625,817	47,469	147,831	153,902
1946.....	3,141,142	468,583	657,826	51,830	164,154	172,908
1947.....	3,527,128	531,875	727,124	58,743	190,919	195,389
1948.....	3,798,813	574,331	791,226	63,223	216,702	221,983
1949.....	4,161,109	632,109	858,522	69,119	240,359	243,749
1950.....	4,446,000	675,000	901,000	74,000	257,000	264,000
% Increase since 1941....	50.1%	57.2%	46.0%	53.7%	78.0%	54.4%

Note 1: Figures shown exclude motorcycles and trailers.

Note 2: Figures for 1950 are estimates as published by state authorities and compiled and issued by Bureau of Public Roads—Department of Commerce.

(Here follow 2 Photolithographs, side folios 913, 914)

Defendant's Exhibit N

FORM 7000

ATLANTIC RICHFIELD OIL CORPORATION

PART I
(For General Office Use)

	Exempt ☐
	Subject ☐
	Approval:
	Date:

DEPARTMENT LOCATION Control Schedule

CLASSIFICATION BRANCH MERCHANDISER EFFECTIVE

SALARY RANGE BASIC RATE

PART II
Job Description

1. WHAT ARE NECESSARY QUALIFICATIONS: (State briefly essential experience, training and abilities considered necessary to satisfactory performance)

Age: 24 to 38 years

Education: High school graduate or equivalent, preferably education in merchandising, along with mechanical inclinations.

2. EXTENT OF SUPERVISION RECEIVED: (State name and classification of supervisor(s) — Describe briefly nature of supervision: General, Moderate, Close — also frequency to which work is subject to review and checking and availability of supervisor for consultation and advice)

Close supervision by Branch Manager and Special Merchandising Representative. Supervisors available at all times for consultation and advice.

Technical knowledge

3. EXTENT OF SUPERVISION EXERCISED: (Give positions and number of persons supervised)

Supervises the sales, service and operations of all L.O. stations in territory.

4. RELATIONSHIP TO OTHER POSITIONS:

(a) Positions in line of promotion considered superior to this position:

Territorial Merchandiser

(b) Positions considered comparable to this position:

Line Salesman and Industrial Salesman - Branch

(c) Positions in line of promotion considered inferior to this position:

None

913

4618

5. WORK PERFORMED: (Set forth accurately and fully the work performed, the limits of responsibility, type of responsibility, types of decisions and recommendations made and give the principal functions of the position. Show approximate percent of time devoted to each of the principal duties)

Functions: Supervision of operations, sales and service, customer development and service station management of all LO units in his territory.

Responsibilities: Responsible for the development of and increased sales through all LO units, by the selection of competent lessees; with proper instruction in Richfield merchandising practice and policy; with proper records necessary to evaluate results. Reports to branch manager.

Duties:

1. Selection and installation of dealers
   a. Know best sources for prospective dealers.
   b. Proper selection of dealers.
   c. Clearly outline advantages of Richfield Franchise to prospective dealer.
   d. Check out present dealer and install new dealer, with proper handling of all items on Form 166.

2. Thoroughly train dealers and their helpers in all phases of Richfield service station procedures.
   a. All sales procedures and service aids.
   b. All maintenance of buildings, lubrications department and restrooms.
   c. Service station management.
   d. Service station market development.
   e. Displays and signs.
   f. Safety methods.
   g. All MD forms except 66 & 110.
   h. TBA sales stories, uses and installations.
   i. Use of Richfield advertising and personal advertising.
   j. Richfield dealer supply department materials.
   k. Credit card procedures and solicitation.
   l. Proper handling of Richfield seasonal campaigns.

3. System of follow-up and checking on dealers' actual performance as a result of training.
   a. As a guide to dealer for improving his operations.
   b. As a record for Merchandiser for a complete record of dealers improvement in operations and in carrying out suggestions.
   c. A record of performance for the Division branch.

4. Maintain all records, reports, requisitions and other forms as required by the company pertaining to all LO service station operations.

5. Conduct or assist in the conducting of dealer meetings.

6. Completely analyze dealers operations and by actually working with him on the station, demonstrate methods of bolstering weak departments, if necessary in uniform.

Compiled by D C Smith Approved by Date 6/1/47

914

[fol. 915] Work Habits—Branch Merchandiser

Daily

(1) Phone into the Branch at 8:00 o'clock in the morning, Monday through Friday. Do not come into the Branch except to handle emergencies or at the request of the Branch Manager. Mail will be sent to the home and it is not necessary to come into the Branch to secure same.

a. Leave with the Chief Clerk or Branch Manager the daily route sheet based upon:

1. One, but not more than two, calls upon LO operators.

2. Apportion time spent with operators on basis of 75% of time being spent on the weakest 25% of the operators.

(2) Call the Branch, in addition to the first morning call, at 11:00 a. m. and 3:00 p. m.

(3) Work with each LO Operator on the day's route sheets, in uniform, by:

a. Make out Form 205 with operator or in the event a Form 205 is not made out the Job Breakdown and Record of Progress should be used as a guide to determine the work to be done.

b. Use the back of triplicate of Form 205 for any special notations to be made on items to be checked at the next call. The Form 205 will be punched on the right of the page and the Merchandiser's copy should be kept in the notebook along with the Form 216.

c. Check operator's understanding of all items marked "unsatisfactory."

d. Demonstrate correct procedure and check operator's performance, making notations on Record of Progress.

e. Before leaving station review all to-be-corrected items and be sure the Operator understands how to correct each one, leaving with him the original copy of the Form 205 as a guide.

f. Check on condition of "A" boards.

g. Maintain a date book and enter in the date book all future appointments or matters scheduled to be handled for that day.

h. Assist operators in the proper methods of hiring, training and supervising their employees and observe the conduct of operator's employees from time to time when the operator is absent from the station.

(4) When necessary to make emergency calls, they should be handled after 3:00 p. m.

Weekly

(1) Report to the Branch Saturday morning at which time all correspondence, reports, and any and all records should be cleaned up for the week.

(2) Also on Saturday morning all matters should be cleaned up with the Branch Manager on any items to be gone over, and plans should be formulated for the coming week.

Monthly

(1) The 200 Report should be prepared in the Branch Office immediately after the 1st of the month.

(2) The first Saturday the Forms 216 must be brought up to date from the information shown on the 200 Report on Forms 1079, The TBA Distributor's Report.

(3) Make calls with the Branch Manager to cover all LO Units.

[fol. 916] When Possible or When Occasion Arises

(1) Interview applicants for LO units who have been screened by the Chief Clerk by definite appointment and arrange for the acceptable applicants to interview the Branch Manager by appointment.

(2) Before checking in the selected operator, a complete understanding should be had with him on the "Richfield Plan for Profit;" all plans, such as hours of operation, maintenance, uniforms and operator meetings.

(3) Install the new operator by being present during the complete transaction.

a. Use Form 146 as a guide to the check-in and check-out covering every item on the Form.

b. The Schedule "A" on Form 542 must be checked as to actual physical inventory and not by merely transfer-ing the information on the old out-going operator's Schedule "A" of Form 542.

c. Spend at least one week, or more if necessary, with the new operator immediately upon his installation.

d. Train the new operator during this period using the Job Breakdown as a guide.

e. Wait until 30 days before making out the first 205 report.

f. Make neighborhood calls with the new operator after the installation when convinced his service is okay. This should be 2 to 4 weeks after installation.

g. Use 3 x 5 cards for list of Credit Card holders in the operator's territory and see that all Credit Card holders are contacted.

h. Use Market Development book.

(4) Analyze station's potential and compare operators performance to that potential.

a. Use Profit Analysis Form to compare present profit based on present gallonage to potential based on present gallonage, making definite plans to increase sales on each low item.

b. Make Service Station Survey, using Service Station Survey Form and develop on Profit Analysis Form the potential gallonage, and make plans to develop the gallonage available but not enjoyed in the territory.

(5) Check opening and closing hours on each station in the territory.

(6) Check night lighting, paying special attention to the wattage of the bulbs and the focus of the lights. If necessary notify the C & M Department to handle cleaning and refocusing.

[fol. 917]

Job Breakdown—Branch Merchandiser

What to Do	How to Do It	When
(a) Selects Operator	(1) Watch for prospects among own helpers;	As needed.
	(2) Keep file on prospects that apply	Continuously.
	(3) Advertise in paper if necessary	Only when necessary.
	(4) Have complete understanding of Company and operator responsibilities.	
	(5) Show benefits of Richfield Franchise.	
(2) Install operator	(1) Handle all items in sequence as outlined on Form 146.	On day of check-in.
(3) Train new operator	(1) Use Job Breakdown & Record of Progress.	Immediately after installation.
	(2) Be in uniform.	
	(3) Explain use of Richfield & personal advertising—seasonal campaigns & give aways.	Stay as long as needed.
(4) Train the older operator.	(1) Fill out Form #205	At least every 60 days.
	(2) Explain and demonstrate how to correct the weaknesses revealed.	
	(3) Keep Record of Progress on each operator.	
(5) Maintain Form #200 & #216 & analyze.	(1) Keep reports accurate and current—note trends shown—note weak operator—analyze causes—develop plan of action.	1st & 5th of following month.
(6) Analyze operators performance on station.	(1) Work with operator—demonstrate correct procedures—use longer periods for training (min. 2 hours) in uniform.	When his operations show a need for improvement.
(7) Maintain all records required by Company pertaining to LO stations operation.	(1) As instructed by Branch Manager.	According to Company policy and procedure.
	(2) Refer to Book "Handling Our Business"	
(8) Report to Branch by phone.	(1) Get any specific instructions for the day.	8:00 a.m.
	(2) Plan day's work.	11:00 a.m.
	(3) Prepare daily route sheets.	3:00 p.m.
	(4) Work on station with operators and helpers to improve service and business.	

[fol. 918]

(9) Check hours of operation of his stations.	(1) Tour his stations for actual check.	(1) As often as needed.
(10) Check Company Advertising.	(1) "A" Boards—special company and product advertising in stations.	Continuously as he visits stations.
(11) Plan and conduct or assist in conducting operator meetings.	(1) Carry out instructions of Branch & Division.	As determined by Company.

(Here follow 2 Photolithographs, side folios 919, 920)

Defendant's Exhibit N-1

ATLANTIC RICHFIELD OIL CORPORATION

PART I
(For General Office Use)

	Exempt ☐
	Subject ☐
	Approval:
	Date:

DEPARTMENT LOCATION Control Schedule

CLASSIFICATION TERRITORIAL MERCHANDISER EFFECTIVE

SALARY RANGE BASIC RATE

PART II
Job Description

1. WHAT ARE NECESSARY QUALIFICATIONS: (State briefly essential experience, training and abilities considered necessary to satisfactory performance)

AGE: 25 to 35 years.

EDUCATION: High school graduate or equivalent, preferable education in merchandising, along with mechanical inclinations.

EXPERIENCE: Should have one year's experience as Branch Merchandiser with the training furnished that position.

2. EXTENT OF SUPERVISION RECEIVED: (State classification of supervisor(s) — Describe briefly nature of supervision: General, Moderate, Close — also frequency with which work is subject to review and checking and availability of supervisor for consultation and advice)

Moderate supervision by Assistant Division Manager - Merchandising and/or Special Merchandising Representative. Supervisor available at all times for consultation and advice.

3. EXTENT OF SUPERVISION EXERCISED: (Give positions and number of persons supervised)

Co-operates with Commission Agents in the handling of 10 dealers along with the development of sales with the dealers in the assigned territory.

4. RELATIONSHIP TO OTHER POSITIONS:

(a) Positions in line of promotion considered superior to this position:

Special Merchandising Representative

(b) Positions considered comparable to this position:

Territorial Salesman

(c) Positions in line of promotion considered inferior to this position:

Branch Merchandiser

5. PRINCIPAL FUNCTION: (State briefly the primary purpose of the job)

Supervision of operations, sales and service, customer development and service station management of all 10 units in his territory, and of Commission Agents as far as 10 operation is concerned.

4688

6. DUTIES AND RESPONSIBILITIES: (Enumerate and describe the principal duties for whose performance the job is responsible. Show the percentage of time devoted to each and the extent of responsibility. Begin each sentence with an action verb.) | Percentage of Time

RESPONSIBILITIES: Responsible for the development of and increased sales through all 10 units, by assisting the Commission Agents in the selection of competent lessees; with proper instruction in Richfield merchandising practice and policy with Commission Agents and dealers; with proper records necessary to evaluate results.

DUTIES:

1. Assist Commission Agents in selection and installation of dealers.
   a. Know best sources for prospective dealers.
   b. Proper selection of dealers.
   c. Clearly outline advantages of Richfield Franchise to prospective dealer.
   d. Check out present dealer and install new dealer, with proper handling of all items on Form 146.
2. Thoroughly train Commission Agents, dealers and their helpers in all phases of Richfield service station procedures.
   a. All sales procedures and service aids.
   b. All maintenance of buildings, lubrication department and restrooms.
   c. Service station management.
   d. Service station market development.
   e. Displays and signs.
   f. Safety methods.
   g. All MD forms except #9 and #10.
   h. TBA sales stories, uses and installations.
   i. Use of Richfield advertising and personal advertising.
   j. Richfield dealer supply department materials.
   k. Credit Card procedures and solicitation.
   l. Proper handling of Richfield Seasonal campaigns.
3. Job Breakdown and Record of Progress, Forms 1071 - 1 to 8, inclusive, for follow-up and checking on dealers' actual performance as a result of training.
   a. As a guide to dealer for improving his operations.
   b. As a record for Territorial Merchandiser for a complete record of dealers' improvement in operations and in carrying out suggestions.
   c. A record of performance for Territorial Merchandisers and for field follow-up.
4. Assist Commission Agent in maintaining all records, reports, requisitions and other forms as required by the company pertaining to all 10 service station operations.

7. SCOPE OF JOB: (Describe additional factors which may be of value in distinguishing the level of the work as to its importance to the organization. Include but do not confine this statement to such things as relative size of the operation, volume and flow of the work, degree of judgment exercised, contacts with other personnel and the public, principal equipment used, and other characteristic job features.)

5. Conduct or assist in the conducting of dealer meetings.

6. Completely analyse dealers' operations and by actually working with them on the station demonstrate methods of bolstering weak departments, if necessary, in uniform. Train Commission Agent in these methods in order that he can follow through on suggestions made to the dealer.

Compiled by _____ Approved by _____ Date _____ 930

[fol. 921] **Work Habits—Territorial Merchandiser**

Daily

(1) Handle any and all emergencies and special assignments first thing in the morning, which may have been given by the Assistant Division Manager of Merchandising or the Special Merchandising Representative. When these have been handled, check with the Commission Agent in whose territory the day's work has been scheduled for that day on the weekly route sheet.

a. If no special assignments, check into the agency first thing in the morning, informing the agent as to the LO units to be worked that day.

b. If, due to geographical difficulties, the agent should be notified by mail or phone as to the LO's and in what sequence they will be worked.

(2) Work with each operator on the route sheet, in uniform by:

a. Start out by making out Form 205 on the operator.

b. Check operator's understanding of all items marked "unsatisfactory".

c. Demonstrate correct procedures and check operator's performance on all unsatisfactory items, correcting those possible, and making notations on the Record of Progress.

d. Before leaving station review all "To be Corrected" items on the Form 205, making sure the operator is in complete understanding as to what should be done, leaving him the original copy of the Form 205 as a guide.

e. Check on the condition of the "A" boards.

f. Keep the Date Book complete on items needing attention at the station. These should be referred to the Special Merchandising Representative or Assistant Division Manager of Merchandising for handling. Also note in the Date Book any special items to be handled on the next call.

Weekly

(1) Make out a route sheet for each day's schedule one week in advance. Mail to Division Office on Saturday to reach the Assistant Division Manager of Merchandising by Monday morning.

a. The daily route sheet should provide for not more than two calls per day on LO operators.

b. Apportion time spent with operators on the basis of 75% to be spent on the weakest 50% of the operators.

(2) New operators should be worked with for at least a day or two immediately following the installation of the operators, and then checked at frequent intervals for the first sixty days.

Monthly

(1) Form 200's should be analyzed on each LO unit.

(2) Form 216 should be completed immediately following the first of the month from the information on the Form 200 and Form 1079 received from TBA distributors.

When Possible or When Occasion Arises

(1) Assist Commission Agent in selection and installation of operators by:

a. Being aware of the best sources for prospective operators.

b. Assisting him in properly selecting the operator.

[fol. 922] c. Clearly outlining the advantages of the Richfield Franchise to prospective operators.

d. Have a complete understanding with all operators as to their responsibilities and in maintaining the property and serving the public.

e. Following Form 146, checking out the present operator and installing the new operator, with the Commission Agent present.

f. Spend at least one or two days or more if necessary with the new operator immediately following his installation.

g. Training the new operator during this period using the Job Breakdown as a guide.

h. Wait 30 days after installation before making out the Form 205 report.

i. Make some neighborhood calls with the new operator as soon after his installation as possible and when convinced that his service is up to standard. This should be from two to four weeks from installation.

(2) Thoroughly train Commission Agents in all phases of Richfield Service Station procedure.

(3) Assist Commission Agent in maintaining all records, reports, requisitions, and other forms as required by the company pertaining to all LO stations in the territory.

(4) Conduct and assist in the conducting of operator meetings as required, and handle meetings covering the Richfield Plan for Profit with new operators when practical.

[fol. 923]

Job Breakdown—Territorial Merchandiser

What to Do	How to Do It	When
(1) Select Operator	(1) Work with Commission Agent to secure and interview prospects. (2) Watch for prospects among own helpers. (3) Keep file on prospects that apply. (4) Advertise in paper if necessary. (5) Have complete understanding of company and operator responsibilities. (6) Show benefits of Richfield Francise	As needed.
(2) Install Operators	(1) Handle all items in sequence as outlined in Form 146. (2) Prepare and execute Form 542, Schedule 306.	
(3) Train new operators	(1) Use Job Breakdown & Record of Progress. (2) Be in uniform (3) Explain use of Richfield and personal advertising—seasonal campaigns—give-aways.	Immediately after installation. Stay as long as needed.
(4) Train the older Operators.	(1) Fill out Form 205. (2) Explain and demonstrate how to correct the weaknesses revealed (in uniform).	Every 60 days. As needed.
(5) Supervise the Operator	(1) Contact him periodically. (2) Use Form 205. (3) Help him to bolster weak points by better merchandising.	On definite schedule.
(6) Maintain and analyze Forms 200 and 216	(1) Keep reports accurate and current—note trends shown—note weak operators—analyze causes—develop plan of action.	1st to 5th of month.

[fol. 924]

(7) Analyze Operators' operations on stations	(1) Work with operator—demonstrate correct procedures—use longer periods for training (minimum: 2 hours at a time). (2) Contact Commission Agent before covering his LO stations.	When his operations show a need for improvement.
(8) Maintain all records required by company pertaining to LO station operation	(1) As instructed by Special Merchandising Representative. (2) Refer to book "Handling our Business."	According to company policy and procedures.
(9) Report to Special Merchandising Representative	(1) Prepare weekly route sheet in advance.	Week in advance.
(10) Check hours of operation of his stations	(1) Tour his stations for actual check.	As often as needed.
(11) Check company advertising	(1) "A" board, special company and product advertising in stations.	Continuously as he visits stations.
(12) Plan and conduct or assist in conducting operator meetings	(1) Carry out instruction of Special Merchandising Representative. (2) Work with Commission Agent.	As determined by company.

(Here follow 2 Photolithographs, side folios 925, 926)

4702A

Defendant's Exhibit N-2

FORM 700

SHFIELD OIL CORPORATION

PART I
(For General Office Use)

	Exempt ☐
	Subject ☐
	Approval;
	Date:

DEPARTMENT LOCATION Control Schedule

CLASSIFICATION SPECIAL MERCHANDISING REPRESENTATIVE EFFECTIVE

SALARY RANGE BASIC RATE

PART II
Job Description

1. WHAT ARE NECESSARY QUALIFICATIONS: (State briefly essential experience, training and abilities considered necessary to satisfactory performance)

Age: 30 to 45 years

Education: High school graduate or equivalent, preferably education in merchandising, along with mechanical inclinations.

Experience: Must have minimum of two years' experience as Branch Merchandiser and Territorial Merchandiser with further merchandising and retail experience of at least five years.

2. EXTENT OF SUPERVISION RECEIVED: (State name and classification of supervisor(s) — Describe briefly nature of supervision: General, Moderate, Close — also frequency to which work is subject to review and checking and availability of supervisor for consultation and advice)

Under the general supervision of the Assistant Division Manager - Merchandising. Supervisor available at all times for consultation and advice.

3. EXTENT OF SUPERVISION EXERCISED: (Give positions and number of persons supervised)

Supervises the activities of all Merchandisers, Commission Agents and City Salesmen in his assigned territory pertaining to the operation of all resale units.

4. RELATIONSHIP TO OTHER POSITIONS:

(a) Positions in line of promotion considered superior to this position:

Branch Manager "A" and Assistant Division Manager - Merchandising

(b) Positions considered comparable to this position:

Branch Manager "B" and Special Representative "B"

(c) Positions in line of promotion considered inferior to this position:

Territorial Merchandiser and Territorial Salesman

925

4728

5. WORK PERFORMED (Set forth accurately and fully the work performed, the limits of responsibility, types of responsibility, types of decisions and recommendations made and give the principal function of the position. Show approximate percent of time devoted to each of the principal duties)

Functions: Supervision of Merchandising activities of all Merchandisers, Commission Agents and City Salesmen in his assigned territory pertaining to the operation of all resale units, under the direction of the Assistant Division Manager of Merchandising, and to be considered as a training ground for candidacy for that position in the event of an opening.

Responsibilities: Metropolitan: development of an increase sales through LO units by use of the Richfield Plan-for-Profits, and prescribed service station procedures in cooperation with Branch Managers and Merchandisers. Outside Territories: same, with Territory Salesmen, Commission Agents, Branch Managers and Territory Merchandisers.

Duties:

1. When assigned to areas outside metropolitan districts, should work with Territory Merchandisers and Commission Agents in selection and training of reliable LO Dealers.
2. Assist in continuance of proper operation of all resale units.
3. With Territory Merchandisers check Commission Agent's TBA stocks and credits to assure adequate supply of all items.
4. Work with Merchandisers on weak LO units, giving suggestions for improvements.
5. Make recommendations for repairs and company maintenance of LO units.
6. Make survey on competitive practices and policies, and keep Assistant Division Manager of Merchandising informed.
7. Assists in the adjustment of complaints which might arise from resale operations.
8. Supervises introduction and carrying out of all advertising and promotional campaigns through resale units.

Compiled by J. K. Miller Approved by Date 8/18/44

926

[fol. 927] Work Habits—Special Merchandising Representatives

Daily

1. Check into branch or commission agency the first thing in the morning, checking route sheet of territory merchandiser or branch merchandiser with whom he expects to travel.

2. Go over any special problems with the merchandiser which either he or the merchandiser might have, after meeting merchandiser at specific station.

a) Handle these problems with merchandiser at this time.

3. Check merchandiser's records to determine that they are current and in order—i. e. 200, 216, 1071.

4. Analyze Forms 535-A for policing of company loan exposure.

5. Analyze Forms 205 with merchandiser.

a) Determine whether best use of this form is made.

b) Make physical check of station to determine whether maintenance has improved since preparation of last Form 205.

c) If no improvement evident, determine what steps merchandiser will take to get situation handled.

d) Follow through on this phase of activity at the time of your next meeting with merchandiser.

6. Listen to merchandiser's presentation at each L. O. account on whom he calls with the merchandiser.

a) Demonstrate and offer suggestions for proper presentation to get the job done more efficiently.

7. Observe merchandiser's presentation again on subsequent station calls to determine whether merchandiser's approach has improved.

a) Repeat until merchandiser can handle presentation properly.

8. Check merchandiser's Form 1071 (Dealers' Training Guide) to determine extent of operator's training progress.

a) Observe station operations for evidence of merchandiser's training as per "Dealers' Training Guide" entries.

b) Call to merchandiser's attention all deviations by operator and help at station.

[fol. 928] c) Determine how merchandiser handled operator training.

d) Correct training methods of merchandiser, if warranted.

9. Make observations at station called as to:

a) Uniforms—T. B. A.—petroleum stocks—Richfield approved merchandise for sale to credit card customers—type of help employed by operator—display fixtures—bookkeeping system—dealer supply items—general attitude of operator, etc.

b) Any poor conditions found must be discussed with merchandiser for his immediate action towards correction.

10. At stations called with merchandiser, observe service station equipment presently in use.

a) Is equipment in good working order?

b) Is equipment obsolete, antiquated and does it need replacement?

11. Establish proper method of approach for merchandiser's use to correct equipment condition with operator.

a) Importance to operator in having equipment which is in good operating condition to do a proper job.

b) Attractive equipment builds customer's confidence.

12. Train merchandiser on any phase of operation in which merchandiser is not proficient.

a) Use "Dealers' Training Guide" sheets to accomplish this.

b) Check constantly the progress of merchandiser to determine whether he has benefited from your training.

c) All merchandiser training must be done away from operator's presence to avoid embarrassment.

Weekly

1. Schedule following week's work in advance.

2. Prepare route sheet and mail to Assistant Division Manager—Merchandising, to reach him by Monday morning.

a) Plan to spend as much time as necessary with merchandiser with whom you expect to travel.

b) Notify in advance territory merchandiser or branch manager the time of your arrival, designated meeting place with merchandiser.

[fol. 929] c) In all cases, meet merchandiser at a specific service station.

3. Analyze Form 1335, merchandiser's daily report received from Division office.

a) Making too many calls?

b) 75% of time with weakest stations?

c) Is work planned?

Monthly

1. Analyze performance of the previous month as evidenced by Forms 200—1079—C. C. and T. P. reports.

a) Determine progress made to detect weak territories.

b) Make plans for corrective measures and improvement of sales picture.

2. Discuss weaknesses with merchandisers affected and outline plans for the betterment of the general sales picture.

3. Follow-up on improvement measures adopted.

4. Determine progress made in previous month with respect to:

a) Reducing the number of new stations under 10,000 gallons.

b) Market development program.
c) Re-opening closed stations.
d) Improvement in gallonage; old facilities.

5. Follow through with merchandisers to insure continuous progress.
6. Analyze attainment report as released by Division office (60 days).

a) Discuss individual performance with each merchandiser.
b) Outline plans for improvement.

7. Ride the stations to check operating hours with merchandiser, both in the morning and evening.

a) Check station illumination at the same time.

8. Determine whether outstanding rentals, notes etc. due the company have been collected.

a) Follow through with merchandiser until you know collection has been effected.

[fol. 930] When Necessary or When Occasion Arises

1. Consult with territory merchandiser and/or commission agent on all changes of operators.
2. Assist in interviewing prospective dealers.
3. Supervise activity of commission agents as pertains to L. O. operations.
4. Counsel with merchandisers on preparation of all loan papers.

a) Assist in preparing papers, where necessary.
b) Make certain merchandisers thoroughly familiar with company loan plan.
c) Encourage wider usage of loans—another merchandising tool.

5. Recommend repairs and maintenance of L. O. units.

a) See that necessary forms and requisitions are routed to the Division office.

6. Be prepared to move in and handle any and all difficult or acute situations, as necessary.
7. Check on competitive merchandising practices and policies, prices, etc.

a) Keep Assistant Division Manager—Merchandising constantly advised.

8. Assist merchandiser in the proper handling of complaints.

a) Collect all facts.
b) Do not obligate company.
c) Handle promptly on ground if possible, otherwise to Division.

9. Analyze all Forms 205 sent him by Division office.

a) Immediate follow-up should be made with merchandisers on those which are exceptionally bad.
b) A report should be made on what was done to correct situation—sent to Assistant Division Manager —Merchandising.

10. Assist in planning, scheduling and conducting dealer meetings.
11. Plan and hold merchandising meeting with merchandisers under his supervision every 60 days.

a) Plan in advance; proceed as per plan, and follow up material presented in field.

[fol. 931] Necessary Records

1. Form 1093 "Merchandising Field Follow-Up". Prepare Form 1093 on each merchandiser every 60 days.

a) Constitutes a guide for merchandiser to follow in the performance of his every day work habits.
b) Merchandiser will know what is expected of him.
c) Enables you to detect weaknesses on the part of the merchandiser and evaluate his effectiveness.
d) Another opportunity for you to offer constructive suggestions to increase merchandiser's over-all efficiency and performance.

2. Form 1081 "Record of Progress". Maintains—uses for merchandiser follow-up.

3. Form 1071. Uses for merchandiser training.

4. Maintains accumulative sales figures of territories as obtained from Forms 200, 1079.

5. Maintain cost per gallon on each merchandiser and on territory as a whole. (Furnished by Division monthly).

6. Maintains credit card, time payment statistics for each branch and agency point.

(Here follow 2 Photolithographs, side folios 932, 933)

Defendant's Exhibit N-3

ATLANTIC-RICHFIELD OIL CORPORATION

PART I
(For General Office Use)

LINE SALESMAN - BRANCH

Exempt ☐
Subject ☐
Approval:
Date:

DEPARTMENT Mktg. So. Div. LOCATION Control Schedule
CLASSIFICATION Line Salesman - Branch EFFECTIVE
SALARY RANGE BASIC RATE

PART II
Job Description

1. WHAT ARE NECESSARY QUALIFICATIONS: (State briefly essential experience, training and abilities considered necessary to satisfactory performance)

High School education or equivalent and a reasonable amount of sales experience or knowledge of sales work. Be affable, agreeable and be able to contact and deal with the public.

2. EXTENT OF SUPERVISION RECEIVED: (State name and classification of supervisor(s) — Describe briefly nature of supervision: General, Moderate, Close — also frequency to which work is subject to review and checking and availability of supervisor for consultation and advice)

Works directly for Branch Manager who exercises moderate to general supervision. Work is subject to review and checking by supervisors who are readily available for consultation by telephone or in the field and office.

3. EXTENT OF SUPERVISION EXERCISED: (Give positions and number of persons supervised)

Does not exercise supervision over anyone.

4. RELATIONSHIP TO OTHER POSITIONS:

(a) Positions in line of promotion considered superior to this position:

Territorial Salesman

(b) Positions considered comparable to this position:

Branch Merchandiser

(c) Positions in line of promotion considered inferior to this position:

Tank Truck Salesman

4781

5. WORK PERFORMED: (Set forth accurately and fully the work performed, the limits of responsibility, types of decisions and recommendations made and give the principal functions of this position. Show approximate percent of time devoted to each of the principal duties.)

PRINCIPAL FUNCTION:

Promotion of sales, solicitation of new business and renewing of existing accounts.

RESPONSIBILITIES:

1. Secures renewal of existing contracts.
2. Solicit new resale business and other type accounts.
3. Secure bid proposal on municipal, city and county requirements of petroleum products.
4. Attend such bid openings.
5. Promote the sale of TBA merchandise.
6. Secure full cooperation of all accounts in matters pertaining to company policies and instructions.

DUTIES:

1. Solicit new resale accounts, retain and renew existing contracts with such accounts. Sales Contract Form 337; Painting Agreement Form 59; Equipment Loan Agreement Form 825 - 40%
2. Secure new commercial accounts, retain and renew such existing accounts all covered by Form 735 Consumer Gasoline Contract - 20%.
3. Secure new industrial accounts, retain and renew such existing accounts covered by Form 432 Lubricating Oil Agreement - 15%.
4. Collection of accounts receivable, credit card charges - 10%.
5. Contact and adjust or recommend for adjustment all complaints - 5%
6. Attend all bid openings of city, county and municipal and prepare Form 474 Report on Bids - 2%.
7. Secure cooperation of all types accounts in handling advertising matters and displays - 3%
8. Secure orders for the sale of TBA merchandise and accessories - 3%
9. Attend Branch meetings and cooperate with Branch Manager in promotion of sales programs, contests, etc. - 2%.

Compiled by | Approved by | Date

933

[fol. 934] Work Habits—Branch Salesman

Daily

(1) Report to the Branch by telephone every morning by 8:00 a. m. except when it is necessary to come to the Branch, either at the request of the Branch Manager, or when a meeting is scheduled.

(2) Leave the daily route sheet with the Branch Manager or Chief Clerk first thing in the morning. It should be made up by:

a. Breaking down the territory into work days on a geographical basis.

b. Keep a date book and check calls which have been previously set up for that day.

c. Spend about 75% of the time on commercial accounts which should include a minimum of two prospects per day.

d. Spend the remaining 25% on independent Richfield dealers and prospective Richfield dealers being sure that each Richfield dealer is contacted at least once a week.

(3) In addition to the first call to the Branch in the morning, call in at 11:00 a. m. and 3:00 p. m.

(4) Make up Form 167-A on all prospects and customers, keeping up to date with all changes, expansions, personnel and additional products.

(5) In making calls, before contacting each account, check with Form 167-A on that account.

(6) Concentrate on the full line of products which can be used by each and every account and solicit credit card applications.

(7) Immediately after each call make all necessary notations on the Form 167-A and in addition, fill in the Salesman's Report Form 647 on that call so that the 647 will be completed at the end of the day.

(8) In the event of any variation in the daily route sheet, the Branch Chief Clerk should be notified.

(9) Give Independent dealers all merchandising help they will absorb and in training their helpers, make sugges-

tions to those dealers for ways to improve their business and increase sales. Always concentrate on the advantages of carrying the complete Richfield line. Also attempt to make neighborhood development calls with these dealers.

Weekly

(1) Attend meeting with the Branch Manager.

(2) Report to the Branch on Saturday morning, cleaning up all of the week's business and handling the mail and any other items requiring attention.

[fol. 935]

Job Breakdown—Branch Salesmen

What to Do	How to Do It	When
(1) Solicit independent dealers in his territory.	(1) Keep 167 file current on all independent dealers in his territory.	Continuously.
	(2) Present advantages and benefits of a Richfield Franchise. Use brochure, "Richfield Franchise".	Keep trying.
	(3) "Get a foot in the door" by selling competitor a partial line of products.	At every opportunity.
(2) Give merchandising assistance to independent dealers	(1) Train dealer and helpers.	On regularly scheduled service calls.
	(2) Offer assistance to any or all phases of Richfield's Plan-for-Profits.	
	(3) Advertising & give-away assistance.	
	(4) Assistance with displays.	
	(5) Give credit information and credit card set-up.	
(3) Collect information regarding real estate for purchase or lease.	(1) Contact property owners, present leases, assemble information in writing turn over to Branch Manager or Real Estate Representative.	Continuously.
(4) Handle 3-C deals	(1) Get all data—complete forms—submit for approvals.	Be alert at all times to secure these leases.
(5) Solicit industrial, farm & ranch and commercial accounts.	(1) Use Form 167A on all accounts. Post daily from Form 647. Keep Form 647 daily.	Regular consistent calls on prospects and present customers.
	(2) Work with Industrial Salesman where he can help.	
(6) a. Administer Richfield's Credit Policies pertaining to all types of accounts.	(1) Fill out proper form.	At time sale is made.
b. Solicit Credit Card Customers.	(2) Forms 1101X for $75.00. Form 1101 for extension for independent dealers.	
(7) Keep posted on activities of competitors.	(1) Note changes in prices, products and policies.	Continuously.
(8) Handle all complaints.	(1) Keep informed on Richfield policies pertaining to handling of complaints—get all the facts. Make no promises. Don't obligate Company. Channel information to proper superior and follow through on results.	Promptly when complaint arises.
(9) Place the Corporation on the bidding list on Government business.	(1) Keep informed on bid letting dates.	Meet the time limits prescribed.
	(2) Consult with Branch Manager for help.	

[fol. 936] Work Habits—Baanch Salesman—2

Monthly

(1) Make out Form 200 on independent dealers and analyze—point out loss of profits.
(2) Post 167-A and analyze—anticipate future business.

When possible or when occasion arises

(1) Always be on the alert for any anticipated lease expiration or new locations available and immediately report same to Branch Manager.
(2) Make collections near the end of the month and check up on bad checks and poor credits.
(3) Contract expirations on all kinds of accounts both Richfield and competitive.
(4) Competitive practices.
(5) Place Corporation on bidding lists.
(6) Handle 3-C deals.

(Here follow 2 Photolithographs, side folios 937, 938)

Defendant's Exhibit N-4

FORM 700

RICHFIELD OIL CORPORATION

PART I
(For General Office Use)

	Exempt ☐
	Subject ☐
	Approval:
	Date:

DEPARTMENT LOCATION Control Schedule

CLASSIFICATION TERRITORIAL SALESMAN EFFECTIVE

SALARY RANGE BASIC RATE

PART II
Job Description

1. WHAT ARE NECESSARY QUALIFICATIONS: (State briefly essential experience, training and abilities considered necessary to satisfactory performance)

Age: 30 to 40 years

Education: High school graduate or equivalent, preferably education in marketing, along with mechanical inclinations.

Experience: Should have experience in handling people and the ability to assign work to the men under his supervision. Should have at least one year's experience as a Branch Salesman or one year as a Branch Salesman and Branch Merchandiser.

2. EXTENT OF SUPERVISION RECEIVED: (State name and classification of supervisor(s) — Describe briefly nature of supervision: General, Moderate, Close — also frequency to which work is subject to review and checking and availability of supervisor for consultation and advice)

Under the moderate supervision of the Assistant Division Manager - Operations and Special Representative. Supervisors available at all times for consultation and advice.

3. EXTENT OF SUPERVISION EXERCISED: (Give positions and number of persons supervised)

Supervises sales effort and operations of Commission Agents in territory.

4. RELATIONSHIP TO OTHER POSITIONS:

(a) Positions in line of promotion considered superior to this position:

Branch Manager, Special Representative and Special Merchandising Representative

(b) Positions considered comparable to this position:

Territorial Industrial Salesman and Territorial Merchandiser

(c) Positions in line of promotion considered inferior to this position:

Merchandiser and Line Salesman

4821B

5. WORK PERFORMED: (Set forth accurately and fully the work performed, the limits of responsibility, types of responsibility, types of decisions and recommendations made and give the principal functions of his position. Show approximate percent of time devoted to each of the principal duties)

Functions: To supervise the sales efforts and operations of the Commission Agents in his assigned territory, acting as direct representative of the Assistant Division Manager in charge of Operations.

Responsibility: Instruct and supervise the Commission Agents as to their duties and functions, with the proper handling of all company business and general appearance of all company property. Personally, and with the agent, assist in the overall promotion of sales to all types of accounts, securing all new leases and real estate.

Duties:

1. Recommends to the Assistant Division Manager and Special Representatives changes in Commission Agents and assists the District Agent and Special Representatives in making agency changes.
2. Properly trains and instructs all new agents in all sales promotion and plant operation, based on the booklet, "Richfield Responsibilities."
3. Contacts existing and prospective accounts, with or without, the Agent to increase present sales or secure new business on resale accounts, commercial accounts, industrial accounts, and farm and ranch accounts.
4. Handles the negotiation and completion of all sales contracts where they are required.
5. Analyzes sales results with the agent and assists in the development of further sales with the view of meeting established quotas.
6. Assists the agent in routing his drivers, organizing his warehousing and stock control in relation to the business done or to be anticipated.
7. Supervises all credit, accounting and traffic matters for each agency, and checks all credits and accounts receivable, credit card charges, delinquent rentals, and any other matters pertaining to credit, accounting and traffic department problems.
8. Develops new proposals, with sketches and necessary information, on new resale locations for either leasing or purchasing, either personally or under the supervision of a real Estate man.
9. Maintains and keeps current forms 167a on Commercial and retail accounts (except LO) in all territories, and supervises the Commission Agent in maintaining his Form 167.
10. Keeps the corporation posted on all county, city, government and municipal bid requirements, and follows up on all bids submitted.
11. Supervises the posting of necessary sales records covering all agency operations on all types of accounts and analyzes these records for the purpose of improving the operation.
12. Prepares and submits Form 647 on all calls, sales, collections and other information pertaining to his daily activities.
13. Analyzes market operating costs per gallon for each Agent, and offers suggestions to improve the Agent's position.

Compiled by _____ Approved by _____ Date _____

[fol. 939] Work Habits—Territory Salesman

Daily

1. Handle any specific assignments given by the Assistant Division Manager of Operations or the Special Representative first thing in the morning, and then check into the agency scheduled for that day on the weekly route sheet. If no special assignments, check into the agency first thing in the morning.

a. Discuss sales performance versus quotas as of that date.

b. Formulate plans from the results as of that date towards making quotas on all products for the balance of the month.

2. Discuss, review and handle with the agent all division office correspondence pertaining to the agency.

3. Check bulk plant facilities and automotive equipment for cleanliness and maintenance.

a. Any company responsibility should be requisitioned or memoed to the Assistant Division Manager of Operations for handling with the C & M Department.

b. All items which are the Agent's responsibility should be noted and instructions should be left with the agent for proper handling.

4. Plan the days calls making a route sheet and adhering to same.

a. Make sales contacts primarily on prospects where the agent needs assistance or where complaints have been registered.

b. Real Estate or lease contacts.

c. Checking on bids on Government, State or Municipal agencies.

5. Do not leave agency until all important or pressing business has been completed.

a. Leave agent instructions for following through on all contacts made.

b. Review with agent all matters to be handled for the next call.

c. Enter all information gathered on forms 167 and 167A.

6. Prepare form 647 on days work.

Weekly

1. Make out weekly route sheet Saturday covering calls for the coming week mailing a copy to the division office so that it will reach there in the first mail Monday.

a. Arrange your route to spend more time at new agencies or weak agencies.

b. Two days should be spent in each territory except in case of emergency.

2. Advise agent in advance by phone or mail the date of arrival and the amount of time to be spent as is covered on the route sheet.

3. Keep and post all necessary sales records such as 216, 77, 200 and 89 reports.

Monthly

1. Analyze market operating costs.

2. Check performance against quotas for the past month and determine reasons for failing to meet quotas.

3. Analyze quotas for the coming month and make plans for meeting these quotas.

When Possible or When Occasion Arises

1. Recommends agency changes to Special Representative.

a. Have all facts in the case.

b. Secure or assist in securing a new agent.

2. Assist Special Representative and District Agent in making agency changes.

a. Arrange for Home Office Accounting Department Representative to be present.

b. Both previous to and on date of change.

3. Trains and instructs new agent in sales promotion and plant operation immediately following installation.

[fol. 940] a. Use booklet "Agent's Responsibilities" as a guide.

b. Be sure agency has a copy of booklet and check each item in the back of the book.

4. Handle all complaints immediately working with agent to determine facts in case.

5. Handles negotiation and completion of all sales contracts.

a. Handles existing contracts well in advance of expiration date.

b. Promptly prepares new contracts.

6. Reports all Government and Municipal requirements.

a. Relays information to Special Representative and division office.

b. Follows up on all bids submitted.

7. Checks on all expiring leases with Richfield or competitor well in advance of expiration date.

[fol. 941]

Job Breakdown—Territorial Salesman

What to Do	How to Do It	When
(1) Recommends Agency changes to Special Representative	(1) Have all facts in the case—discuss with Special Representative or Assistant Division Manager of Operations. (2) Secures or assists in securing new Agent.	When conditions in an agency indicate a change is necessary.
(2) Assists Special Representative and District Agent in making agency changes.	(1) Arranges for HO accounting Department representative to be present on day of check-out.	Both previous to and on day of change.
(3) Trains & instructs new agents in sales promotion and plant operations.	(1) Uses booklet "Agents Responsibilities" as guide. Sees that agent has copy. Gives him information on products, sales promotion ideas, and bulk plant operations.	Immediately following installation, and follows up.
(4) Solicits new business.	(1) Works with agent, but may contact accounts alone. (2) Uses good sales technique. (3) Base on a planned program to systematically canvass the entire territory.	Systematically week by week.
(5) Contacts existing accounts in handling complaints.	(1) Works with agent—determines facts in case. Handles as facts indicate. Sells the Company solidly with the Account.	Promptly, as complaints and conditions arise.
(6) Handles negotiation and completion of all sales contracts where required.	(1) Handles existing accounts well in advance of expiration date. (2) Handles new accounts contracts promptly. (3) Points out advantages of sales contract.	Promptly as needed and follows through.
(7) Analyzes sales results with agents.	(1) Uses Forms 77 and 89 and daily cumulative sales report. (2) Plans sales efforts on products and accounts as needed.	Weekly.
(8) Assists Agent in Bulk Plant Operation.	(1) Helps him route drivers, organize stock control and warehousing—maintenance and safety measure.	As needed.
(9) Supervises accounting procedures.	(1) Checks and instructs on credit policies, use of forms, credit card charges, delinquent rentals, accounts receivable and traffic problems.	Approximately each week.

[fol. 942]

What to Do	How to Do It	When
(10) Develops new resale outlets.	(1) Contacts owners, makes sketches and gets all data on locations for leasing or purchasing.	Always alert and encourages the agent to dig up prospects.
	(2) Works with Agent and Real Estate Representative.	
(11) Maintains Form 167-A.	(1) On his important accounts only.	Currently.
	(2) Helps agents maintain their 167's.	
(12) Reports all governmental and municipal bid requirements.	(1) Relays information to Special Representative.	Currently.
	(2) Follows up on all bids submitted.	
(13) Keeps and posts all necessary sales records.	(1) #167, #216, #77 report, #200 report on independent dealers, 89.	Weekly.
(14) Prepares daily Sales Report.	(1) Completes Form 647.	Daily.
	(2) Prepares Daily route sheet.	
(15) Analyzes market operating costs.	(1) Figures Cost per gallon.	Monthly.
	(2) Suggests ways and means to improve the Agent's position.	

(Here follow 4 Photolithographs, side folios 943, 944, 945, 946)

Defendent's Exhibit O

Rev. 1-1-51

CHART OF AUTHORIZED SIGNATURES

RICHFIELD OIL CORPORATION - MARKETING DEPARTMENT

ITEM	SYMBOL INDICATING INDIVIDUAL AUTHORIZED TO APPROVE
A. ADJUSTMENTS AND ALLOWANCES	
(1) Misc. (Excl. Price Adjustments) $10.00 or less	1-2-3-4-20-21
(2) Misc. (Excl. Price Adjustments) Over $10.00	1-2-3-4
(3) Stock Losses (Incl. Audit Shortages)	1-2-3-4-20
(4) Company Use Merchandise	1-2-3-4-20-21
(5) Accounts Receivable - Iron Barrels (Division Manager or Authorized Nominee - Not in Excess of $500.00)	1-2-3-4-20-21
B. AUTHORIZATION FOR EXPENDITURE (FORM 206)	
(1) Repair and Maintenance Expenditures over $500.00	1-2-3-4-5
(2) Capital Expenditures	1
C. BILLS PAYABLE	
(1) Expense Items Not in Excess of $500.00 and all Utility, Postage and Painting Bills	1-2-3-4-5-20-21
(2) Expense Items in Excess of $500.00 (Excl. all Utility, Postage and Painting Bills)	1-2-3-4-5
(3) Vendors' Invoices for Outside Purchase Mdse. Stock	1-2-3-4-20-21
(4) Petty Cash Reimbursements	1-2-3-4-5-20-21
(5) Authorization - Car Allowance	1-2-3-4-5-20-21
(6) Advertising Agency - Client's Order	1-3-4
(7) Freight and Transportation Expense (W. O. Harry or Authorized Nominee)	1-2-3-4-5-12
(8) Expense Items - Garages - 24th St. and Washington & Alameda (E. F. Rogers or Authorized Nominee as established by policy)	1-2-3-4-5-15
D. CAPITAL ASSETS	
(1) Abandonment or Sale of Capital Assets	1-2-3-4-5
E. PRICES AND PRICE ADJUSTMENTS	
(1) Light Oils (Gasoline, Kerosene, Etc.)	1-3-4-6
(2) Lubricating Oils, Greases, and Specialty Products	1-3-4-6-13
(3) Tires, Batteries, Accessories (*)	1-3-4-11
(4) Road Oils and Asphalts (Prices and Commissions) (*)	1-3-4-6-10
(5) Fuel Oils	1-3-4-6
(6) Liquefied Petroleum Gases	1-6-16
(7) Export Sales (All Products) (*)	1-3-4-6-8
F. REQUISITIONS	
(1) Requisitions for Materials & Supplies from Stores	1-2-3-4-5-6-7-20-21
(2) Requisitions for Purchase of Supplies, Materials, Equipment, Services, Etc. (Division Manager or Authorized Nominee as established by policy)	1-2-3-4-5-6-7 20-21
G. SAMPLES, DONATIONS AND MEMBERSHIPS	
(1) Samples	1-2-3-4-20-21
(2) Donations (Incl. Prizes)	1-2-3-4
(3) Memberships & Subscriptions	1

CHART OF AUTHORIZED SIGNATURES - continued

	ITEM	SYMBOL INDICATING INDIVIDUAL AUTHORIZED TO APPROVE
H.	LEASES, CONTRACTS AND AGREEMENTS	
(1)	Commission Agency Agreement (Form 537) (**)	1-2-3-4-7-20-21
(2)	Commission Tank Truck Agent's Agreement (Form 538) (**)	1-2-3-4-7-20-21
(3)	Conditional Sales Contract (Form 456) (**)	1-2-3-4-6-7-20-21
(4)	Equipment Loan Agreement (Form 825) (**)	1-2-3-4-6-7-20-21
(5)	Lease (Form 175) (Recording Lease)	1-2-3-4-9
(6)	Lease (Form 486) (Lessor Built)	1-2-3-4-9
(7)	Lease (Form 486-A) (Existing Unit)	1-2-3-4-9
(8)	Service Station Lease (Form 542) (**)	1-2-3-4-20-21
(9)	3-C Service Station Lease (Form 362)	1-2-3-4-9
(10)	3-C Operator's Lease (Form 668)	1-2-3-4-9
(11)	3-C Operator's Sales Contract (Form 783)	1-2-3-4-9
(12)	Abatement or Cancellation of Rent (**)	1-2-3-4-20-21
(13)	Bulk Plant Lease (Incl. Form 536)	1-2-3-4-9
(14)	Tenancy Agreement (Form 277) (**)	1-2-3-4-9-20-21
(15)	Tenancy Agreement for Billboard Use (**)	1-2-3-4-9-20-21
(16)	Termination Letter (Form 383) (**)	1-2-3-4-20-21
(17)	Termination Agreement (Form 306) (**)	1-2-3-4-6-7-9-20-21
(18)	Sales Contract (Form 337) (Dealer Accounts) (**)	1-2-3-4-6-7-20-21
(19)	Consumer Gasoline Contract (Tank Wagon) (Form 735) (**)	1-2-3-4-6-7-20-21
(20)	Extra Margin Letter Agreement (**)	1-2-3-4-6-7-9-20-21
(21)	Truck Service Station Lease (Form 1095) (**)	1-2-3-4-20-21
(22)	Consumer Fuel Oil Agreement - Tank Car or Truck and Trailer (Form 525) (**)	1-2-3-4-6
(23)	Consumer Fuel Oil Contract (Pipe Line at Dock) (Form 607) (**)	1-2-3-4-6-20-21
(24)	Distributor Fuel Oil Agreement (Form 407)	1-2-3-4-6
(25)	Distributor Agreement (Form R-407) (**)	1-2-3-4-14
(26)	Distributor Agreement (Typed)	1-2-3-4-6
(27)	Sales Agreement - Oils and Greases (Form 432) (**)	1-2-3-4-13
(28)	Assignment of Sales Contract (**)	1-2-3-4-6-7-20-21
(29)	Painting Agreement (Form 59) (**)	1-2-3-4-6-7-20-21
(30)	Agreement of Guaranty (Form 144) (**)	1-2-3-4-7-20-21
(31)	Transportation Agreements	1-2-3-4-5
(32)	Advertising Lease	1-2-3-4-9
(33)	Sublease (Form 1206) (**)	1-2-3-4-14
(34)	Marine Service Station Sales Agreement (Typed)	1-2-3-4-6-7
(35)	Bid Contract - Gasoline (Form 218)	1-2-3-4-6
(36)	Bid Contract - Stove Oil, Diesel Fuel (Form 219)	1-2-3-4-6
I.	PAYROLL DOCUMENTS	
(1)	Increase in Personnel or Payroll Expense -(Extra Labor - 10 Days Only)	1-2-3-4-5-20-21
(2)	Increase in Personnel or Payroll Expense - (Temporary)	1-2-3-4-5
(3)	Increase in Personnel or Payroll Expense - (Permanent)	1
(4)	Personnel Replacement - No Increase in Personnel or Salary	1-2-3-4-5
(5)	Salary Increases	1
(6)	Changes in Position	1-2-3-4-20-21
(7)	Removal from Payroll	1-2-3-4-5-20-21
(8)	Semi-Monthly Payrolls	1-2-3-4-5-20-21
(9)	Weekly Time Report - Where Overtime Payments are Due (Form 921)	1-2-3-4-5-20-21
(10)	Contract of Employment (Form 904)	1-2-3-4-5-20-21

ART OF AUTHORIZED SIGNATURES - continued

NAME AND IDENTIFYING SYMBOL FOR EACH INDIVIDUAL AUTHORIZED

HOME OFFICE

1 - W. G. King, Jr.
2 - A. G. Mayfield
3 - H. T. Hutchinson
4 - O. I. Nelson
5 - P. L. Wild
6 - G. S. Mason
7 - E. W. Semple
8 - B. D. Blanchard
9 - H. J. Brower
10 - J. R. Keane
11 - G. F. Miller
12 - W. C. Harry
13 - F. H. Quicke
14 - J. W. Quigg
15 - B. E. Rogers
16 - H. W. Vossler

DIVISION OFFICE

20 - Division Manager
21 - Division Office Chief Clerk

(*) Approval of 1, 3 or 4 required:

(a) If price adjustment affects products covered by an existing agreement.

(b) If price schedules cover T.B.A. merchandise furnished by new supplier.

(c) If special price concession allowed on T.B.A. merchandise.

(**) Approval of 1, 2, 3 or 4 required:

(a) When the agreement contains unauthorized alterations or insertions in conflict with the printed provisions of the form or in violation of established company policy.

(b) When subleases for service stations provide for rental not in conformance with existing policy.

(c) When commission rates under Form 537 and Form 538 represent a new or original commission rate for an agency or tank truck agent's territory, and when commission rates under either of these forms represent an increase over rates established in the preceding agreement.

APPROVED:

W. G. King, Jr.

945

Defendant's Exhibit O-1

CHART OF AUTHORIZED SIGNATURES
ALCHEMIAN OIL CORPORATION - - DISTRIBUTING DEPARTMENT
EFFECTIVE JUNE 1, 1941

Item	Symbol Indicating Individual Authorized to Approve
1 - ADJUSTMENTS AND ALLOWANCES	
(a) Accts. (Excl. Price Concessions) $10.00 or less	1-1-4-20-21
(b) Accts. (Excl. Price Concessions) Over $10.00	1-1-4
(c) Price Concessions (Light Oils)	1-1-4-7
(d) Price Concessions (Fuel Oils)	1-1-4-7
(e) Price Concessions (Lube Oils and Greases)	1-1-4-4
(f) Price Concessions (Tires, Batteries, Accessories, Etc.)	1-2-1-4
(g) Sundry Losses (Excl. Theft) (Shortages)	1-1-4-20
(h) Customer Use Merchandise	1-1-4-20-21
(i) Abandonment of Capital Assets	1-1-4
2 - AUTHORIZATION FOR EXPENDITURES (FORM 304)	
(a) Repair and Maintenance Expenditures over $100.00	1-1-4
(b) Capital Expenditures	1
3 - BANKING	
(a) Recommendation for Establishment of Depository Bank	1-2-1-4-20
(b) Recommendation for Change of Depository Bank	1-2-1-4-20
4 - BILLS PAYABLE	
(a) Expense Items Not in Excess of $300.00 and all Utility & Postage Bills	1-1-4-20-21
(b) Expense Items in Excess of $300.00 (Excl. all Utility & Postage Bills)	1-1-4
(c) Vouchers Covering for Outside Purchase Disc Stock	1-1-4-20-21
(d) Petty Cash Reimbursements	1-1-4-20-21
(e) Refunds (Excl. Price Concessions)	1-1-4-20-21
(f) Authorization - Car Allowance (T.O. Employees)	1-1-4
(g) Authorization - Car Allowance (Div. Employees)	1-1-4-20-21
(h) Personal Expense Reports - (T.O. Employees)	1-1-4
(i) Personal Expense Reports - (Div. Employees)	1-1-4-20-21
5 - LEASES, CONTRACTS AND AGREEMENTS	
(a) Commission Agency Agreement (Form 537) (o)	1-2-1-4-20-21
(b) Commission Agency Agreement (Form 537-W)-(State of Washington) (o)	1-2-1-4-20-21
(c) Commission Tank Truck Salesman's Agreement (Form 538) (o)	1-2-1-4-20-21
(d) Conditional Sales Contract (Form 436) (o)	1-2-1-4-20-21
(e) Equipment Loan Agreement (Form 625) (o)	1-2-1-4-20-21
(f) Service Station Lease (Form 479) (Recording Lease)	1-2-1-4
(g) Service Station Lease (Form 480) (Lessor Built)	1-2-1-4
(h) Service Station Lease (Form 480-A) (Existing Unit)	1-2-1-4
(i) Service Station Sublease (Form 482) (o)	1-2-1-4-20-21
(j) Service Station Lease (Form 480-1/4) (Underlying Lease - 2-8 Deals)	1-2-1-4
(k) Sublease - 2B (Form 484)	1-2-1-4
(l) Assignment of Lease (Form 483) (2-8 Deals)	1-2-1-4
(m) Abatement or Cancellation of Rent	1-2-1-4
(n) Fuel Plant Lease (Excl. Form 536)	1-2-1-4
(o) Tenancy Agreement (Form 277) (o)	1-2-1-4-20-21
(p) Termination Letter (Form 348) (o)	1-2-1-4-20-21
(q) Termination Agreement (Form 906) (o)	1-2-1-4-20-21
(r) Sales Contract (Form 398)	1-2-1-4
(s) Sales Contract (Form 397) (Dealer Accounts) (o)	1-2-1-4-20-21
(t) Consumer Gasoline Contract (Tank Wagon) (Form 735) (o)	1-2-1-4-7-20-21
(u) Construction Contractors Gasoline Agreement (Form 671)	1-2-1-4-7
(v) Gasoline Quotation to Construction Contractors (Form 672)	1-2-1-4-7
(w) Consumer Fuel Oil Agreement - Tank Wagon (Form 276) (o)	1-2-1-4-7-20-21
(x) Consumer Fuel Oil Agreement - Tank Car or Truck & Trailer (Form 535)	1-2-1-4-7
(y) Consumer Fuel Oil Contract (Price Line at Dock) (Form 677) (o)	1-2-1-4-7-20-21
(z) Distributor Fuel Oil Agreement (Form 497)	1-2-1-4
(aa) Sales Agreement - Oils and Greases (Form 432)	1-2-1-4-4
(bb) Assignment of Sales Contract (o)	1-2-1-4-7-20-21
(cc) Painting Agreement (Form 59) (o)	1-2-1-4-20-21
(dd) Commission Accounts Painting Guaranty (Form 144) (o)	1-2-1-4-20-21
(ee) Transportation Agreements and Related Cancellation Forms	1-2-1-4-10
(ff) Marine Service Station Sales Contract (Form 818)	1-2-1-4-7
(gg) Change of Equipment (Form 836) (o)	1-2-1-4-20-21
6 - PAYROLL INCREASES	
(a) Increase in Personnel or Payroll Expense - (Extra Labor - 10 Days Only)	1-1-4-20-21
(b) Increase in Personnel or Payroll Expense - (Temporary)	1-4
(c) Increase in Personnel or Payroll Expense - (Permanent)	1
(d) Personnel Replacements - No Increase in Personnel or Salary	1-1-4
(e) Salary Increases	1
(f) Changes in Position	1-1-4-20-21
(g) Removal from Payroll	1-1-4-20-21
(h) Division Semi-Monthly Payrolls	1-1-4-20-21
(i) Home Office Semi-Monthly Payrolls	1-1-4
(j) Weekly Wage Report - Where Overtime Payments are Due (Form 921)	1-1-4-20-21
(k) Contract of Employment (Form 906)	1-1-4-20-21
7 - PRICE AUTHORIZATION (DOMESTIC SALES)	
(a) Light Oils (Gasoline, Kerosene, Etc.)	1-1-4-7
(b) Lubricating Oils and Greases	1-1-4-4-7
(c) Tires, Batteries, Accessories, Etc.	1-2-1-4
(d) Road Oils and Asphalts (Prices and Commissions)	1-1-4-7-4
(e) Fuel Oils	1-1-4-7
8 - PRICE AUTHORIZATION (EXPORT SALES)	
(a) Prices for Export Sales (All Products)	1-1-4-8
9 - RENTAL AND CONTRACT BILLS	
(a) Rental Contract Payments	1-1-4-20-21
(b) Commission Contract Payments	1-1-4-20-21
10 - REQUISITIONS	
(a) Requisitions for Materials & Supplies from Stores (oo)	1-1-4-11
(b) Requisitions for Purchase of Supplies for Stores	1-1-4
11 - SAMPLES, DONATIONS AND MEMBERSHIPS	
(a) Samples	1-1-4-20-21
(b) Donations - (Excl. Prices)	1-1-4
(c) Memberships & Subscriptions	1

Name and Identifying Symbol For Each Individual Authorized

HOME OFFICE

1 - W. T. Dinkins
2 - G. C. Noble
3 - A. G. Mayfield
4 - P. L. Wild
5 -
6 - G. French
7 - E. C. Winder
8 - J. R. Keene
9 - B. D. Blanchard
10 - W. O. Harry
11 - F. H. Podmore

DIVISION MANAGERS

20 - W. G. King, Jr. (Southern Div.)
20 - A. C. Carr (Central Div.)
20 - E. Kirby (Northern Div.)

DIVISION OFFICE CHIEF CLERKS

21 - A. W. Summerfield (Southern Div.)
21 - C. K. Moses (Northern Div.)
21 - P. S. Payne (Central Div.)

(o) Home Office Approval Required:

(a) When alterations, additions or deletions on the form are in conflict with the printed provisions of the form or in violation of established company policy.

(b) When subleases for service stations provide for rental of less than 1¢ per gallon.

(c) When commission rates under Form 537 and Form 538 represent a new or original commission rate for an agency or tank truck salesman's territory, and when commission rates under either of these forms represent an increase over rates established in the preceding agreement.

(oo) In the Northern Division approval of the Division Manager, or his nominee, will be accepted in lieu of F. H. Podmore, or his nominee.

APPROVED W. T. Dinkins

4889

POOR COPY

[fol. 947-979]

DEFENDANT EXHIBIT P

U. S. vs. Richfield Oil Corporation

Civil Action No. 6896-Y

Marketing Department

Proposed Capital Expenditures

By Items

Item	Southern Division	Central Division	Northern Division	Total All Divisions
1.....	$10,343,000.00	$4,971,000.00	$4,848,000.00	$20,162,000.00
2.....	500,000.00	940,000.00	460,000.00	1,900,000.00
3.....	699,000.00	139,000.00	80,000.00	918,000.00
4.....	479,000.00	365,000.00	356,000.00	1,200,000.00
5.....	273,000.00	347,000.00	176,000.00	796,000.00
6.....	990,000.00	840,000.00	590,000.00	2,420,000.00
7.....	311,000.00	82,400.00	113,200.00	506,600.00
8.....	79,000.00	306,000.00	22,500.00	406,500.00
9.....	48,600.00	32,400.00	30,600.00	111,600.00
10.....	300,000.00	150,000.00	150,000.00	600,000.00
11.....	.....	345,000.00	235,000.00	580,000.00
Total....	$14,022,600.00	$8,516,800.00	$7,061,300.00	$29,600,700.00

[fol. 980] DEFENDANT'S EXHIBIT R

Richfield Oil Corporation

Richfield Building, Los Angeles 17, California

Dear Sir:

Your Operator's Sales Contract, Form 783, bearing the same date as this letter, provides in paragraph 3 thereof that the prices to be paid by you for the two grades of gasoline to be sold and delivered thereunder shall be the designated resale prices thereof at the time and place of delivery to you, less four cents per gallon. In other words, your margin on such gasoline is four cents per gallon.

You have represented to the undersigned that a competitor has offered to sell you gasoline at total margin equal to or in excess of the total margin hereinafter specified and solely for the purpose of meeting such competition the undersigned agrees that on all gasoline sold and delivered

under said contract we will allow you a total margin of — ¢ per gallon, said total margin being inclusive of and not in addition to the margin specified in paragraph 3 of said Operator's Sales Contract.

For purposes of accounting, the undersigned reserves the right to allow at time of delivery all or any part of the extra margin specified in this letter (such extra margin being the difference between the margin specified in paragraph 3 of said Operator's Sales Contract and the total margin agreed to be allowed as aforesaid), provided, however, that any such extra margin not allowed at time of delivery shall be refunded or credited to your account on or before the 20th day of the calendar month next succeeding the month of delivery.

Yours very truly, Richfield Oil Corporation, By —— ——.

Understood and accepted: —— ——.

[fol. 981] Richfield Oil Corporation

155 West Washington Blvd., Los Angeles 15, California

Dear Sir:

Your Sales Contract, Form 337, bearing the same date as this letter, provides in Paragraph 4 thereof that the prices to be paid by you for the two grades of gasoline to be sold and delivered thereunder shall be the designated resale prices thereof at the time and place of delivery to you, less four cents per gallon. In other words, your margin on such gasoline is four cents per gallon.

You have represented to the undersigned that a competitor has offered to sell you gasolines at total margins equal to or in excess of the total margins hereinafter specified and solely for the purpose of meeting such competition the undersigned agrees that on all gasolines sold and delivered under said contract we will allow you a total margin of — ¢ per gallon as to Ethyl gasoline, and — ¢ per gallon as to Hi-Octane gasoline, said total margins being inclusive of and not in addition to the margin specified in Paragraph 4 of Sales Contract.

For purposes of accounting, the undersigned reserves the right to allow at time of delivery all or any part of the extra margins specified in this letter (such extra margins being the difference between the margin specified in Paragraph 4 of said Sales Contract and the total margins agreed to be allowed as aforesaid), provided, however, that any such extra margins not allowed at time of delivery shall be refunded or credited to your account on or before the 20th day of the calendar month next succeeding the month of delivery.

Yours very truly, Richfield Oil Corporation, By —— ——.

Understood and Accepted: —— ——.

[fol. 982] DEFENDANT'S EXHIBIT S

Work Habits—Special Retail Representative

Daily

1. Set up daily schedule for covering the LO units in a predetermined territory.
2. Check all maintenance and cleanliness of each LO unit.

a. Use form 205 as a guide.

b. Conduct the check in conjunction with the dealer discussing thoroughly his unsatisfactory items.

c. Secure the support of the dealor for performing the functions necessary to maintain a first class operation.

d. Instruct the dealer on how to correct unsatisfactory conditions.

e. Report to Branch Manager or Commission Agent or Territory Merchandiser any maintenance necessary.

f. Leave the original of the 205 with the dealer as his guide, retaining the second copy in the book and giving the first copy with the Branch Manager Commission Agent or Territory Merchandiser before leaving the territory, reporting the conditions uncovered.

Weekly

1. Written report to be given to the Division Manager on all extremely unsatisfactory conditions found during the weeks' work.

Monthly or as Occasion Arises

1. Make subsequent trips through territories previously covered, inspecting the facislities of the LO units and checking against the original 205 report made out on that unit.

a. Unsatisfactory operations which have not been corrected and do not conform to Richfield standards should be reported to the Branch Manager, Assistant Division Manager of Operations and Division Manager, recommending a check out.

b. In the event the dealer has corrected unsatisfactory conditions, he should be complimented.

c. Special Retail Representative shall have final and full authority to order the check out with no appeal whatsoever from his decision.

[fol. 983] DEFENDANT'S EXHIBIT T

Los Angeles, Calif., August 11, 9

Mr. W. G. King, Jr.

The attached letter represents the first instance in which the decision of the Supreme Court in the Standard Oil exclusive dealing case is sought to be applied as a means and reason for terminating a Richfield contract.

McCracken purchased the station and the contracts from Dazey, a dealer with whom we had executed a 3-C contract. The sales contract which was originally an exclusive one was amended in 1948 so as to provide a maximum and minimum. The minimum therein provided is 6,510 gallons a month as against an average during 1948 of 8,702, of 7,233 for the months preceding the execution of the amendment and of a present gallonage of 11,250. This falls far short of being exclusive dealing by contract.

The Standard case did not determine nor purport to determine whether contracts for specified quantities of a substantial nature restrain trade or lessen competition to such extent as to be in violation of the Anti-Trust laws. For the purpose of argument we may assume in this instance that this contract or a series of equivalent contracts would not violate the law as interpreted in the Standard Oil case.

However, the answer to this problem must be reviewed from a practical standpoint. If the Standard Oil case had not been tried and this account had walked out on its commitment under the 3-C papers we, in accordance with our established policy, would not file suit to recover possession. So in the instant case if the account would displace our gasoline in reliance upon the rule of the Standard Oil case we would be in no different position than if he displaced it pursuant to an arbitrary default of the agreements.

It may be advisable, however, to pursue our rights further by means of correspondence with the attorney for the account, setting forth the reasons why the decision in the Standard Oil case is not applicable, or possibly we should take the position that the Standard Oil decree does not apply to Richfield's operations nor to this transaction but that we are willing to release the account from his obligations as we do not deem it desirable to do business with one who is reluctant to perform the terms of our contracts.

Will you and Mr. Ragland give serious consideration to this problem. You appreciate that this is an unusual case and that McCracken is a cut price dealer and purchased this unit for the purpose of operating it as a cut price station. Such activities may spread.

Wm. J. DeMartini.

WJDM:NC

cc: Mr. H. J. Brower, Mr. R. W. Ragland, Mr. David Will.

[fol. 984] DEFENDANT'S EXHIBIT U

William J. DeMartini
Attorney at Law
555 South Flower Street
Los Angeles 13, California
Trinity 2231

August 19, 1949.

Howard M. Van Denburgh, Esq.
1004 North 2nd Street
Phoenix, Arizona

Re: Ralph S. McCracken

Dear Mr. Van Denburgh:

This will acknowledge your letter of August 9, 1949, addressed to Richfield Oil Corporation on the subject of the mutual termination between Richfield Oil Corporation and Mr. McCracken of the 3-C agreements acquired by Mr. McCracken from Loyal Dazey. In answer to your letter I had prepared a legal memorandum designed to show the difference between the operations of Richfield and that of Standard Oil Company of California but after discussion with the sales executives of Richfield Oil Corporation it has been concluded that we should release Mr. McCracken from any obligation to purchase products under said agreements. In passing I may state that Richfield does not operate under the system of exclusive dealing which was the subject matter of the Standard Oil case and the issue as to whether Richfield's operations violate the Anti-Trust laws will eventually be determined in the trial of the action against Richfield Oil Corporation now pending in the United States District Court for the Southern District of California.

Richfield executives consider it is inadvisable to attempt to force compliance of the 3-C transaction by Mr. McCracken if he is not entirely willing to accept the terms thereof. Operation of the station under compulsion would not be to the best interest of the parties.

Accordingly, Richfield will be willing to terminate its agreements on condition that Mr. McCracken fulfill his obligation to Richfield for painting done at the station within the past two years in a sum amounting to $380.46. Your client being in the service station business will be cognizant of the custom of reimbursement for painting costs in those instances where an existing supplier who has painted the station has his gasoline displaced by another supplier.

[fol. 985] It has also been concluded that Richfield may as well sell its equipment located at the station to Mr. McCracken. The list value of this equipment is $1,157.00 exclusive of freight and cost of installation. As the equipment is relatively new and Mr. McCracken will save the cost and expense of installation, we feel that this is a fair figure for this equipment.

If the aforesaid is satisfactory to you I will be pleased to prepare a Mutual Termination of the present contracts and a Bill of Sale which I will forward to our Phoenix office to be delivered to you upon receipt of the sum total of the amounts above specified.

Yours very truly, —— ——.

WJDM:NC

WILLIAM J. DE MARTINI
ATTORNEY AT LAW
888 SOUTH FIGUEROA STREET
LOS ANGELES 13, CALIFORNIA

Howard N. Van Denburgh, Esq.
1004 North 2nd Street
Phoenix, Arizona

Defendant's Exhibit V

CHECK SHEET FOR DEALER'S TBA MANUAL

USE SEQUENCE BELOW WITH CORRESPONDING SYMBOLS HAS CURRENT FORM ✓ DOES NOT HANDLE X NEEDS FORM	STATION NUMBER OR DEALER NAME				
23. Rainsfloc Prices					
24. Rainsfloc Specification Catalog					
25. Schrader Products Prices & Catalog					
26. Dill Products Catalog & Prices					
27. Steel Gas Cap Prices					
28. Warner-Patterson Prices					
29. Yankee Products Prices					
30. Yankee Products Catalog					
31. "WHEE" Products Prices					
32.					
33.					
4.					
35.					
36.					
37.					
38.					
39. Almas Retail Prices					
40. Almas Application Data Book					
41. Gunnebo Parts Price Lists					
42. Gunnebo Parts Replacement Book					
43. Haynes Shock Absorber Prices					
44. Haynes Shock Absorber Replacement Catalog					

USE SEQUENCE BELOW WITH CORRESPONDING SYMBOLS: HAS CURRENT FORM ✓ / DOES NOT HANDLE X / NEEDS FORM	STATION NUMBER OR DEALER NAME																							
1. Goodyear Passenger Tire Retail Prices																								
2. Goodyear Truck Tire Retail Prices																								
3. Goodyear Dealer Discount Sheet																								
4. Goodyear Battery List Prices																								
5. Goodyear Dealer Prices																								
6. Rawlplug List Prices																								
7. Rawlplug Dealer Prices																								
8. Goodyear Battery Cable List Price																								
9. Goodyear Battery Cable Book																								
10. Goodyear Fan Belt & Radiator Hose Specification Book																								
11. Anderson Prices - Motors, Arms & Blades																								
12. Anderson Catalog Sheets																								
13. Champion Prices																								
14. Champion Service Manual																								
15. DuPont Price List																								
16. Eveready Flashlight & Sealed Beam Prices																								
17. Eveready Specification Catalog																								
18. Gross Products Price Lists & Catalog																								
19. Mac's Super Gloss Product Prices																								
20. Mac's Super Gloss Catalog Sheets																								
21. Purolator Prices																								
22. Purolator Sales Manual																								

RECORD OF PROGRESS

CODE TO BE HANDLED SUBJECT EXPLAINED SUBJECT FOLLOWED SUBJECT HANDLED	STATION NUMBER OR DEALER NAME				
III. HYDRA-MATICS — 1. Checking A. Preparation					
B. Checking Level					
C. Add Fluid					
2. Draining & Refilling					
A. First Filling					
B. Second Filling					
IV. POWERGLIDE 1. Checking					
2. Draining & Refilling					
A. First Filling					
B. Second Filling					
V. STUDEBAKER 1. Checking					
2. Draining & Refilling					
A. First Filling					
B. Second Filling					

COPY BOUND

III. HYDRA-MATICS **1. Checking** **A. Preparation**	Every 1000 miles — under right side of floor mat — remove inspection cover — clean around floor and unit.	**B. Second Filling**	Set handbrake and block front wheels — set lever in drive (D) — check level — add fluid needed — NEVER OVER FULL MARK.
B. Checking Level	Selector lever in neutral (N) — apply handbrake — run engine 2 minutes — remove dip-stick — clean and insert.	**V. STUDEBAKER** **1. Checking**	Warm up transmission — set handbrake and block front wheels — lever in Low (L) position — dipstick under cover plate in front floor board.
C. Add Fluid	At full or slightly under, leave alone — if at low or under add fluid to bring up to the full mark or under. NEVER OVER THE FULL MARK.	**2. Draining & Refilling**	Remove transmission oil pan plug — remove converter housing, rotate converter until plug at bottom and remove — remove converter pressure take off plug to vent — replace and tighten 3 plugs & housing.
2. Draining & Refilling	Warm up transmission fluid — turn off engine — raise car on hoist — drain transmission pan and flywheel. NOTE: ALL HYDRA-MATICS HAVE ONE DRAIN PLUG IN FLYWHEEL. Location of plug and flywheel housing different in different models — check guide — replace plugs.	**A. First Filling**	Pour 6 qts. Richlube or Richfield Penn. 10W in transmission — set handbrake and block front wheels — start engine — selector lever in Low (L) and idle.
A. First Filling	Add 8 quarts of Richfield Automatic Transmission Fluid — set handbrake — set selector lever in neutral (N) — run engine 2 minutes.	**B. Second Filling**	Add 3 more qts. Richlube or Richfield Penn. 10W and check — add additional oil to bring up to FULL — NEVER OVER FULL MARK.
B. Second Filling	With engine idling add sufficient fluid to bring level just below "L" mark — speed up engine for 3 minutes — with engine idling add enough fluid to bring to full mark — NEVER OVER THE FULL MARK.		
IV. POWERGLIDE **1. Checking**	Warm up transmission — set handbrake firmly — block front wheels — selector lever in drive (D) — dipstick same place as 1950 Dynaflow.		
2. Draining & Refilling	Remove toe plate top of front floor board — turn engine with starter (ignition off) until drain plug is at top center and remove — raise car and remove housing plug then converter plug through same hole — remove transmission plug — drain completely — replace underneath 3 plugs and one plug in floor plus toe plate.		
A. First Filling	Remove dipstick, add 3 qts. Richfield ATF — start engine, lever in neutral (N) add 6 more qts.		

RECORD OF PROGRESS

501

CODE TO BE HANDLED SUBJECT EXPLAINED SUBJECT FOLLOWED SUBJECT HANDLED	STATION NUMBER OR DEALER NAME			
I. DYNAFLOW — Checking A. Preparation				
B. Reaching the Unit				
C. Checking Fluid Level				
D. Reading Gauge				
2. Draining & Refilling A. Preparation for Draining				
B. Drain Transmission Pan				
C. Drain Flywheel				
D. Install Plugs and Housing				
E. First Filling				
F. Second Filling				
II. ULTRA-MATIC 1. Checking				
2. Draining				
A. First Filling				
B. Second Filling				

COPY BOUND C

AUTOMATIC TRANSMISSION DRAINING & REFILLING

Form 1071-7 500 3-50

I. DYNAFLOW **1. Checking** **A. Preparation**	Transmission hot — selector lever in parking (P) — idling engine — hand brake set — seat cover in front.	**II. ULTRA-MATIC** **1. Checking**	Transmission warmed up — then engine stopped — then car raised on hoist — dip-stick on left side of car back of flywheel — add fluid as in Dynaflow but without the engine running.
B. Reaching the Unit	Under right floor board mat — pry up cover — clean around opening and unit — 1949 & 1950 cars under right front hood.	**2. Draining**	Unit drained exactly as Dynaflow with one transmission plug and two flywheel plugs.
C. Checking Fluid Level	Remove rod — wipe dry with clean cloth — re-install — remove and note level.	**A. First Filling**	Remove center of floor board — 7 quarts Richfield Automatic Transmission Fluid — selector lever in neutral (N) — idle engine 5 minutes — then stop engine.
D. Reading Gauge	If up to full; leave alone — if at low or under, add fluid little at a time, checking frequently — NOT OVER THE FULL MARK.	**B. Second Filling**	Add remainder of fluid to bring the level to the "full" mark. Run engine 1 minute — stop engine and re-check fluid level — NEVER OVER THE FULL MARK.
2. Draining & Refilling **A. Preparation for Draining**	Warm up transmission — put car on hoist and raise.	**(See 1071-8)**	
B. Drain Transmission Pan	Location in back of housing — drain completely — DO NOT REMOVE ACCUMULATOR PLUGS.		
C. Drain Flywheel	Remove housing — vent first plug — turn flywheel to opposite plug and remove, thus draining completely. (Quickest drain by removing both plugs)		
D. Install Plugs and Housing	Check gasket on pan plug — install one converter drain plug and TIGHTEN SECOND PLUG — replace Bell housing.		
E. First Filling	Pour in 3 quarts Richfield Automatic Transmission Fluid — selector lever in parking (P) — start engine and idle one minute.		
F. Second Filling	Add balance of fluid to bring level to just under the full mark with engine idling — run engine until fluid thoroughly warm and re-check — NEVER OVER THE FULL MARK.		

502

RECORD OF PROGRESS

503

CODE TO BE HANDLED SUBJECT EXPLAINED SUBJECT FOLLOWED SUBJECT HANDLED	STATION NUMBER OR DEALER NAME			
1. Sales & Profit Record MD-6				
2. Quick Sales Recorder				
3. Inventories				
4. Cash Handling				
5. Credit Cards				
6. Credit Card Invoices 3 & 3W				
7. C.D.R. Books				
8. C.O.S.D.				
9. Script				
10. Cash Receipts - MD-3				
11. Accepting Checks				
12. Service Record Cards MD-4				
13. Service Record Sticker MD-1				
14. Federal and State Tax, Social Security, Fed. Old Age Pension				
15. Workmen's Compensation				
16. Licenses - City & County				
17. Battery Adjustments				
18. Tire Adjustments				
19. Time Payment A. Credit Card Holder				
B. Non-Credit Card Holder				
20. Hourly Analysis --- Tally Sheets				

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COPY BOUND

Form 1071-C 500 3-50

1. Sales & Profit Record MD-6	Importance — small operations — daily — half hour — covers bookkeeping other than accounts payable and receivable.	**12. Service Record Cards MD-4**	Daily maintenance — transfer all information from Job Ticket — set tabs properly — follow-up cards — MD-7 and MD-7A.
2. Quick Sales Recorder	Importance — large operations — daily — covers every phase of the operation — 12 month period.	**13. Service Record Sticker MD-1**	Complete information — 2 stickers — one on door jamb — one on fire wall — definite part of lubrication job.
3. Inventories	Importance — prevents loss — take daily — balance against sales.	**14. Federal and State Tax, Social Security, Fed. Old Age Pension**	Check State Sales and Unemployment Insurance — Personal Property Tax.
4. Cash Handling	Small amount in drawer — hide remainder — do not leave over-night.	**15. Workmen's Compensation**	Check State regulations.
5. Credit Cards	Application 1151 — full information — by dealer or any company representative — notified by 1154.	**16. Licenses - City & County**	Business licenses — pump licenses — check for local regulations on occupational, used tires, used batteries, bulk sales, pressure tax inspection, etc.
6. Credit Card Invoices 3 & 3W	Fill out invoices completely — stamp up ahead — redeem 1 by driver as payment for petroleum products.	**17. Battery Adjustments**	90-day warranty — pro-rata cost with customer — collect difference due from customer based on customer buying price — adjust with TBA distributor.
7. C.D.R. Books	Special accounts — retain two — check vehicle license with book — redeemed by driver as payment for petroleum products.	**18. Tire Adjustments**	Handle all adjustments with customer as directed by TBA distributor.
8. C.O.S.D.	Apply on 1151 — put requested location on application — charges made only at specified stations — dealer given account number — driver given invoice each purchase against account number — bills sent monthly.	**19. Time Payment A. Credit Card Holder**	Application — complete information — Credit Card number — add $1 to total — 3 months — $2.00 6 months.
9. Script	$10 and $20 denominations — mostly rural — use as cash for petroleum payments.	**B. Non-Credit Card Holder**	Application — complete information — call branch or agency — add $1 to total for 3 mos. — $2.00 6 months.
10. Cash Receipts - MD-3	Receipt requested — salesman — government employees — for verification of sale.	**20. Hourly-Analysis — Tally Sheets**	Enter each sale — each hour — total number gallons or customers — place mark on chart where hour and total intersect — give sheet to merchandiser for chart preparation and analysis.
11. Accepting Checks	Should be discouraged — know customer — for amount of purchase — identification.		

RECORD OF PROGRESS

CODE TO BE HANDLED SUBJECT EXPLAINED SUBJECT FOLLOWED SUBJECT HANDLED	STATION NUMBER OR DEALER NAME
I. Personal Appearance	
II. General A. Maintenance Scheduled	
B. Building Exterior	
C. Exterior Equipment	
D. Landscaping	
E. Sales Room	
III. Lube Department A. Compressor	
B. Oil Dispensers	
C. Lube Equipment	
D. Hoist	
E. Floor	
F. Adequate Tools	
G. Refuse	
IV. Rest Rooms A. Walls	
B. Floor	
C. Toilet Bowl	
D. Wash Basin	
E. Mirrors — Waste Baskets	
F. Supplies	
G. Checked Hourly	

APPEARANCE AND MAINTENANCE

Form 1071-5 500 3-50

I. Personal Appearance	All personnel neat and clean — shave and haircut — practical shoes — approved uniforms and jackets — uniformity essential.	**E. Floor**	Clean up as work progresses — mop daily — never use gasoline — sweep after each job — maintain smooth surface — no loose tools — sump working properly.
II. General **A. Maintenance Scheduled**	Organize duties — hourly, daily, weekly, and monthly — assign responsibilities evenly — stagger monthly duties — check regularly.	**F. Adequate Tools**	Everything in its place — well arranged — all necessary tools on hand — clean and replace after each use — departmentalize tool locations — inventory monthly — replace losses — keep tools modern and in good repair.
B. Building Exterior	Wash monthly with plain water and brush — do not use soap — cleanser for oil and grease spots — clean roof where exposed — check condition of paint — clean drive daily — klenzine and water — clean grease and oil spots immediately — wash windows weekly.	**G. Refuse**	Keep picked up and in suitable container — remove before accumulation occurs — keep out of customer's sight.
C. Exterior Equipment	Pump island first impression — clean daily — soap and water or Klenzine — wipe pumps daily — wash and wax weekly — clean hoses and nozzles daily — oil racks clean and filled — signs clean and dust free — "A" board posters current, clean and authorized — lights clean and operating.	**IV. Rest Rooms** **A. Walls**	Wash weekly — wipe daily — check condition of paint — no unauthorized signs — coat hooks.
D. Landscaping	Regular attention to cultivation, gardening, trimming, watering — keep entire area free of weeds — clear five foot strip of adjoining property — never use planting area or adjoining area for rubbish.	**B. Floor**	Mop daily — sweep hourly — wax to seal surface.
E. Sales Room	Clean floors daily — keep spotless at all times — dust all merchandise daily — use feather duster — display related items — properly priced — re-merchandise regularly — keep records and files out of sight — watch for cluttered shelves, corners, and counters — clean telephone regularly — wash all glass weekly — fire extinguishers clean, filled, tagged.	**C. Toilet Bowl**	Scrape off if discolored — then scour daily — disinfect daily or more often as needed — check seat condition frequently.
III. Lube Department **A. Compressor**	Wipe clean daily — drain moisture daily — check monthly for oil level and condition — lubricate monthly — use Service Record Sticker on compressor for regular reference.	**D. Wash Basin**	Scour daily — check after use — watch for leaky faucets — discoloration.
B. Oil Dispensers	Wipe hi-boys and containers daily — check condition of identification signs and decals — clean up spots and drippings immediately.	**E. Mirrors — Waste Baskets**	Clean mirrors daily — check hourly — keep baskets clean and emptied — sanitary receptacles cleaned and disinfected daily.
C. Lube Equipment	Clean all equipment daily — wipe off after each lubrication job — lubricate moving parts frequently — keep hoses clean.	**F. Supplies**	Paper towels — toilet tissue — soap dispenser filled — seat covers — deodorant — check supplies each hour.
D. Hoist	Clean after each job — scrub daily — remove spots during job — check frequently for efficient operation.	**G. Checked Hourly**	Doors unlocked — impression created by locked doors — assign responsibility for hourly check or more often if use indicates.

RECORD OF PROGRESS

CODE TO BE HANDLED ☐ SUBJECT EXPLAINED ☒ SUBJECT FOLLOWED ☒ SUBJECT HANDLED ☒	STATION NUMBER OR DEALER NAME				
I. Develop Present Customers A. Make Analysis Sheet					
B. Analyze Losses					
C. Check for Balanced Job					
II. Determine Potential Business A. Market Survey					
B. Determine Potential Gallonage					
C. Estimate Potential Profit					
D. Compare Present With Potential Profit					
III. Develop Potential A. Market Data Book					
B. Door Openers & Giveaways					
C. Neighborhood					
1. Follow Up					
D. Commercial					
E. Outside Trading Area					
F. Traffic					
IV. Follow Up A. Market Data Book					
B. Service Record					
C. Direct Mail					
D. Advertising					

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COPY BOUND

MARKET DEVELOPMENT

Form 1071-4 500 3-50

I. Develop Present Customers **A. Make Analysis Sheet**	Use profit analysis form — present gross profit from dealers books — possible profit from analyzer wheel — determine profit lost each department.	**C. Neighborhood**	Carry Data Book — giveaways — select street — door to door — clean uniform — 25 calls a week — 5 to 7 p.m. best — Plan for Profit #5 Revised page 13 — secure all information listed in Data Book.
B. Analyze Losses	Prepare 205 with dealer — correct unsatisfactory procedures, facilities and conditions — outline proper plan to bolster weak departments shown on analysis sheet — leave 205 with TBC checked — recheck often.	**1. Follow Up**	Send MD-12 night of call — if no results, repeated phone & personal calls on "hot" prospects — use in Direct Mail. MD-13 ten days later.
C. Check for Balanced Job	Prepare profit analysis in 30 days — determine progress in reducing lost profit — if all departments improved and 205 satisfactory prepare market survey — if not repeat B above.	**D. Commercial**	Present customers in Data Book — personal calls — reciprocal business — solicit both passenger & commercial cars — use giveaways — Budget plan — lube guide — product information — follow up cards.
II. Determine Potential Business **A. Market Survey**	Prepare with dealer — use "Market Survey Pad" — follow instructions on inside cover — insist dealer do part of work — suggest, don't be arbitrary on market area selection.	**E. Outside Trading Area**	Hand bills on parked cars — license numbers for postal card mailing — free parking with purchased service.
B. Determine Potential Gallonage	Transfer survey information in triplicate to "Are You Getting All the Profits" folder.	**F. Traffic**	Excellent service — station neat & clean — seasonal giveaways — road maps — adequate lighting — highway signs.
C. Estimate Potential Profit	Put Gallonage from B above in column 4 of Profit analysis form — turn analyzer wheel to gallonage and fill in potential for each department — deduct estimated expenses in column B.	**IV. Follow Up** **A. Market Data Book**	Check periodically with phone book & city directory — personal calls on new residents — call back on customers failing to come in — solicit credit cards.
D. Compare Present With Potential Profit	Take annual net profit on present and compare annual net profit with potential — stress strongly all financial benefits in following market development plan.	**B. Service Record**	Enter immediately new customers — send reminder cards when service due MD-7 & 7A.
III. Develop Potential **A. Market Data Book**	Transfer market map to front — fill in pages with streets well spaced — from Service Record cards enter all customers on proper streets — index in back.	**C. Direct Mail**	Select direct mail campaign — use Data Book for mailing list.
B. Door Openers & Giveaways	Secure before starting development — estimate number needed from Survey.	**D. Advertising**	Tie in with seasonal campaigns — establish budget 5% gross — allot proportionally as indicated by market survey.

RECORD OF PROGRESS

CODE TO BE HANDLED ☐ SUBJECT EXPLAINED ☒ SUBJECT FOLLOWED ☒ SUBJECT HANDLED ☒	STATION NUMBER OR DEALER NAME			
I. TIRE SERVICE 1. Cross Switching				
2. Removing & Mounting				
3. Repairing Tubes				
4. Wheel Balancing				
II. BATTERY SERVICE 1. Battery Service				
2. Removing and Installing				
3. Charging				
4. Cleaning				
5. Replacing Battery Cables				
III. ELECTRICAL SERVICE 1. Replacing Light Bulbs				
2. Cleaning - Replacing Spark Plugs				
3. Replacing Fuses				
IV. COOLING SYSTEM SERVICE 1. Draining & Flushing Radiator				
2. Stop-Leak Service				
3. Replacing Radiator Hose				
4. Fan Belt				
V. MISCELLANEOUS 1. Washing				
2. Polishing				
3. Mac's U Job				
4. Replacing Wiper Blades and Arms				

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COPY BOUND

Form 1071-0 500 3-50

I. TIRE SERVICE **1. Cross Switching**	Remove tacks and glass — clean contacts — observe for breaks and cuts — check cores and caps.	**2. Cleaning - Replacing Spark Plugs**	Use Champion cleaner — test plugs — adjust gap — follow mfg. spec's. — protect porcelain — tighten securely — check wires.
2. Re. oving & Mounting	Use special rim tool on all Chrysler makes — use rubber mallet — tire irons — rubber lubricant for tubes.	**3. Replacing Fuses**	Protect fingers — follow mfg. spec's.
3. Repairing Tubes	Use hot patch — follow manufacturer's recommendations.	**IV. COOLING SYSTEM SERVICE** **1. Draining & Flushing Radiator**	Check hose — don't drain at drive — protect hands — keep motor running — add water slowly — follow mfg. spec's.
4. WHEEL BALANCING	Proper equipment — balancer — weights.	**2. STOP-LEAK SERVICE**	Check hoses — clean and flush first — drain — refill. Add Stop-Leak — run motor fast idle until leak stops.
II. BATTERY SERVICE **1. Battery Service**	Test battery with open circuit tester — report condition — clean terminals — distilled water — don't overflow — terminals tight.	**3. REPLACING RADIATOR HOSE**	Check for size — install hose — check clamps — run engine — check for leaks — re-tighten.
2. Removing & Installing	Strap carrier — protect fender — correct carrier adjustments.	**4. FAN BELT**	Check for tautness — examine belt — underneath side — loosen generator nut — install proper size belt — take up generator with crowbar & tighten — run motor and check. — sell spare belt.
3. Charging	Fast charger recommended — follow charger manufacturer's recommendations.	**V. MISCELLANEOUS** **1. Washing**	In shade — cool car first — clean interior — wheels first — clear water or approved soap — dry with chamois — paint tires.
4. Cleaning	Terminals & cables — use soda solution — then light lubricant film.	**2. Polishing**	Clean interior — clean wheels — dust body — use Mac's polish — clean chrome and glass — paint tires.
5. REPLACING BATTERY CABLES	Clean terminals thoroughly — light lubricant film — all connections tight — shims if necessary — follow chart for size.	**3. Mac's It Job**	Clean interior — wheels — body — Mac's Special Cleaner — Mac's It Gloss — clean chrome and glass — paint tires.
III. ELECTRICAL SERVICE **1. Replacing Light Bulbs**	Protect hands — follow manufacturing specifications — replace lens securely — check rims on sealed beams.	**4. Replacing Wiper Blades and Arms**	Follow specifications chart — check arm adjustment — make sure nut is tight — blade on securely.

RECORD OF PROGRESS

CODE TO BE HANDLED SUBJECT EXPLAINED SUBJECT FOLLOWED SUBJECT HANDLED	STATION NUMBER OR DEALE NAME				
PART I 1. Preparation of Job Ticket					
2. Placing Car on Hoist					
3. Lubrication Guide					
ART II 1. Body Hardware					
2. Driver's Compartment					
PART III 1. Underhood					
PART IV 1. Center Line Lubrication					
PART V 1. Chassis Lubrication					
PART VI 1. Miscellaneous Work					
PART VII 1. Final Services					
PART VIII — Other Services A. Oil Filter Service					
B. Air Cleaner Service					
C. Gasoline Filter Service					
D. Wheel Bearing Service					
E. Shock Absorber Service					
F. Universal Joints					
G. Springs — Covered					
H. Winter-Shield — Summer-Shield					

RICHFIELD LUBRICATION SERVICE

Form 1071-2 500 3-50

PART I **1. Preparation of Job Ticket**	Prepare in presence of customer — completely — check services ordered — refer to service record card and service record sticker — note and point out other needs.	**PART VII** **1. Final Services**	Two Service Record Stickers — one on fire wall — other on door jamb — all information — complete job ticket — review with customer — check oil pressure gauge — show Service Record Card to customer and explain follow-up — complete card — thank customer and ask to return.
2. Placing Car on Hoist	Center car over hoist — adjust supports — raise hoist 3" and check — raise to desired height — 10,000 lb. limit.	**PART VIII** **1. Other Services** **A. Oil Filter Service**	Check mileage — feel filter — if changing, clean case — replace gaskets — check leaks by running engine at idling speed for 3 to 5 minutes.
3. Lubrication Guide	Review chart before starting job — hang in convenient place — frequent reference — use chart to sell — service — train.	**B. Air Cleaner Service**	Excellent sales opportunity for door opener — follow procedure card for type — replace securely.
PART II **1. Body Hardware**	Start on fill-pipe side — hands clean — remove excess grease and oil — lubricate sparingly.	**C. Gasoline Filter Service**	Do not touch unless replacement gasket is available — clean thoroughly — replace gasket — check for leaks.
2. Driver's Compartment	Place covers on seat and steering wheel — lubricate dash controls only if squeak or are hard to operate — accelerator pedal — starter button hinges — hand brake — seat adjustment.	**D. Wheel Bearing Service**	Remove all old grease — clean thoroughly — mechanical packer recommended — adjust accurately — new cotter key. No grease in hub.
PART III **1. Underhood**	Fender covers — begin on side opposite oil fill-pipe — lubricate all points indicated in lube guide — service air cleaner, oil filter and crankcase ventilator if required — avoid use of petroleum lubricants on rubber — check oil — leave bayonet out and hood unlatched if drain is ordered.	**E. Shock Absorber Service**	Clean around plug and remove — have special equipment for filling — follow chart — replace plug securely. If shocks leak recommend replacement.
PART IV **1. Center Line Lubrication**	Drain crankcase and flush — replace plug — universal joints, etc., — refer to guide — service transmission and differential — service automatic transmission (see 1071-B).	**F. Universal Joints**	Remove plug — use low pressure gun — lube sparingly — replace plug — don't attempt to disassemble and repack — check procedure card for type.
PART V **1. Chassis Lubrication**	Begin on left side under driver — clockwise — clean all fittings — lubricate all fittings — constant reference to guide — service shocks — lower car on hoist.	**G. Springs - Covered**	Use "C" clamps — special spring lubricator — take weight off springs.
PART VI **1. Miscellaneous Work**	Refill crankcase — check — wheel bearings — check battery water level and condition — clean terminals — check radiator — clean oil glass — inflate tires — clean and paint oil tires — note needs on Job Ticket.	**H. Wiper-Shield Summer-Shield**	Complete 5,000 mile service twice a year — sell from any of ten services — stress saving and safety.

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RECORD OF PROGRESS

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CODE TO BE HANDLED SUBJECT EXPLAINED SUBJECT FOLLOWED SUBJECT HANDLED	STATION NUMBER OR DEALER NAME				
I. Customer Approach & Gasoline Sale					
A. Customer Greeting					
B. Gasoline Service					
. Under the Hood A. Motor Oil Service					
B. Oil Sales Methods — Oil OK					
C. Oil Sales Methods — Heads Oil					
D. Radiator Service					
E. Battery Service Underhood					
F. Underhood Sales					
III. Glass Cleaning Service					
IV. Tire & Battery Service A. Tire Service					
B. Battery Service (Not Underhood)					
'. Collecting for Sale					
VI. Two-man Service					
VII. Extra Free Services					
VIII. Courtesy Services A. Information to Customers					
B. Service to Rest Room Customers					
C. Service to Air and Water Customers					

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COPY BOUND

RICHFIELD SAFETY SERVICE

Form 1071-1 500 3-50

I. Customer Approach & Gasoline Sale	Step lively — run if necessary — approach customer from front — enthusiastic smile.	**III. Glass Cleaning Service**	Don't ask permission — driver's side — outside — inside and clockwise around car — thorough job — or none. Use plenty of cleaning fluid — change paper towel if necessary — clean wiper blades.
A. Customer Greeting	"Good morning, sir. (Pause) Shall I fill your tank this morning?" (If gasoline not specified, ask "Do you use Richfield Ethyl or Hi-Octane?")	**IV. Tire & Battery Service A. Tire Service**	Inflate to customer's requirements — check spare — replace all caps — be alert to sales possibilities. Use "Do you know ——" on sales approach.
B. Gasoline Service	Hold cap in hand — keep hose away from body — listen — guard against overflow.	**B. Battery Service (Not Underhood)**	"How long has it been since your battery was tested?" Test battery with Open Circuit Tester.
II. Under the Hood A. Motor Oil Service	Raise the hood without asking permission unless the hood is locked — if locked request customer to release hood, asking "Will you unlock your hood so I can check your water and oil?" — use Richfield paper napkins — show bayonet to customer — be alert for sales possibilities.	**V. Collecting for Sale**	Before collecting ask, "Are your lights working properly?" — if any doubt ask customer to turn lights on — advise findings — then quote item — then price — then total — acknowledge money received — thank customer — ask him to return.
B. Oil Sales Methods — Oil OK	"Your oil is at the safe driving level." (If transient add "Unless it is time to drain. How many miles have you driven with this oil?")	**VI. Two-man Service**	Salesman handles customer contacts and steps 1, 2 & 5 — helper handles steps 3 & 4, reporting findings to salesman — then contacts second car.
C. Oil Sales Methods — Needs Oil	"You need two quarts of Richlube to bring your oil up to the safe driving level." (If transient add, "Unless you need a change. How far have you driven with this oil?") "I'll put it in for you."	**VII. Extra Free Services**	After complete service, render all plus services that time allows, dust off car — use tooth brush to clean wiper blades — empty ash trays — sweep floors — oil gasoline fender cap — stress safety — follow TBA sales methods.
D. Radiator Service	Take water hose with you — examine for rust — put in some water regardless — don't overflow — watch for water leaks. Be careful due to possible anti-freeze.	**VIII. Courtesy Services A. Information to Customers**	Be courteous — give complete information — clean windshield — if possible, solicit gasoline sale — correctly.
E. Battery Service Underhood	Test battery with Open Circuit Tester — then add necessary water — advise customer of condition. Use "Do you know ——" on sales approach.	**B. Service to Rest Room Customers**	Rest Room clean — supplied — unlocked — clean windshield — working on it when customer returns — offer other services correctly.
F. Underhood Sales	Check fan belt — radiator hose — wiring — battery cables — oil filter — spark plugs — complete service before making sales approach. Use "Do you know ——" on sales approach.	**C. Service to Air and Water Customers**	Be courteous — give service requested — clean windshield — offer other services — correctly.

[fol. 1005]

DEFENDANT EXHIBIT W

Compilation of Total Number of Richfield's L. O. Stations Showing Portion and Percentage Thereof Originally Created as Service Stations by Richfield

As of December 31, 1950

	Total L. O. Stations	L. O. Stations **Created by Richfield	Percentage of L. O. Stations **Created by Richfield
*Category A	510	423	82.9%
*Category B	312	275	88.1%
*Category C	377	342	90.7%
*Category D	144	52	36.1%
Total L. O. Stations (All categories)	1,343	1,092	81.3%

(Definitions)

* Category A. Fee properties: Land and facilities owned by Richfield.

* Category B. Facilities owned by Richfield installed on land leased by Richfield.

* Category C. Lessor Built Stations: stations built by lessors to Richfield's specifications on land leased by Richfield.

* Category D. Other: stations built by lessors (but not to Richfield's specifications) on land leased by Richfield.

** Created by Richfield: This phrase refers to those stations built by Richfield or by the property owner under agreement with Richfield on sites which had never theretofore been used or equipped as a service station handling any petroleum products.

[fol. 1006]

DEFENDANT'S EXHIBIT X

337 Dealer Accounts

(January 1, 1946 to and Including December 31, 1950)

	Number Lost at Expiration of Contract			Number Lost Prior to Expiration of Contract			Total Number Lost		
	Painting Agreement in Existence at Time of Loss			Painting Agreement in Existence at Time of Loss			Painting Agreement in Existence at Time of Loss		
	Yes	No	Total	Yes	No	Total	Yes	No	Total
Southern Division	20	12	32	135	37	172	155	49	204
Central Division	28	6	34	71	37	108	99	43	142
Northern Division	33	8	41	97	30	127	130	38	168
Total	81	26	107	303	104	407	384	130	514

[fol. 1007] Compilation of 337 and

3-C Contracts In Effect
as of February 28, 1951

This compilation segregates such contracts into four groups. Each such group (A-D, inclusive) describes the ratio which the minimum quantity of gasoline (the quantity which the dealer obligates himself to purchase) specified in the dealer's sales contract bears to the dealer's average monthly purchases for the year preceding the date of the contract. Where such average monthly purchases were not available at the time the contract was written, the ratios were computed on the basis of the estimated gallonage.

(1) Contract Groups	(2) Number of Sales Contracts	(3) Percent Each Group Bears to Total Number of Sales Contracts
Group A—Less than 75%	408	25%
Group B—75% to 79%, incl.	458	28%
Group C—80% to 89%, Incl.	560	34%
Group D—90% and over	214	13%
Total Contracts	1,640	100%

[fol. 1008]

DEFENDANT'S EXHIBIT Z

U. S. vs. Richfield Oil Corporation

Civil Action No. 6896-Y

Comparison of Gasoline Gallonage Sold to Richfield L. O. Stations, Dealer 3-C Stations and Dealer Stations with Total Gasoline Gallonage Manufactured By All Companies in Arizona, California, Idaho, Nevada, Oregon and Washington

(Stated in Thousands of Gallons)

		Richfield L. O. Stations		Dealer 3-C Stations		Richfield Dealer Stations		Richfield L. O., 3-C and Dealer Stations	
Years	Total Gallons Manufactured	Gallons Sold	% Sold To Total Manufactured	Gallons Sold	% Sold To Total Manufactured	Gallons Sold	% Sold To Total Manufactured	Gallons Sold	% Sold To Total Manufactured
1938.....	3,285,878	75,772	2.31	38,641	1.18	12,166	.37	126,579	3.86
1939.....	3,379,621	84,037	2.49	34,160	1.01	17,365	.51	135,562	4.01
1940.....	3,282,352	94,892	2.89	31,768	.97	21,717	.66	148,377	4.52
1941.....	3,645,581	104,459	2.87	29,421	.81	31,655	.87	165,535	4.55
1942.....	3,648,678	77,525	2.12	19,841	.54	24,506	.67	121,872	3.33
1943.....	3,898,986	73,243	1.88	13,904	.36	22,634	.58	109,781	2.82
1944.....	4,669,181	71,851	1.54	6,484	.14	26,542	.57	104,877	2.25
[fol. 1009]									
1945.....	5,027,964	96,909	1.93	4,563	.09	36,814	.73	138,286	2.75
1946.....	4,660,105	123,413	2.65	6,257	.13	53,880	1.16	183,550	3.94
1947.....	5,182,061	120,898	2.33	11,385	.22	53,954	1.04	186,237	3.59
1948.....	5,291,901	125,018	2.36	17,050	.32	55,355	1.05	197,423	3.73
1949.....	5,703,481	142,953	2.51	19,813	.35	60,219	1.06	222,985	3.92
1950.....	5,925,060	160,759	2.71	20,385	.34	67,476	1.14	248,620	4.19

[fol. 1010]

DEFENDANT'S EXHIBIT AA

L. O. STATIONS LEASED BY RICHFIELD

STATEMENT OF RENTALS PAID AND RECEIVED

L. O. Stations Leased Richfield (Excludes Fee Owned by Properties)	1946	1947	1948	1949	1950
*Rentals Paid	$1,473,067.84	$1,345,434.46	$1,375,014.31	$1,429,480.10	$1,442,099.80
Rentals Received	1,044,080.25	983,172.81	902,338.98	970,088.92	956,563.35
Excess in Rentals Paid (Absorbed by Richfield)	428,987.50	362,261.65	472,675.33	459,391.18	485,536.54
Gasoline Gallonage	111,597,123	100,762,123	95,985,474	97,378,994	99,902,105
*Rentals Paid per Gallon	¢ 1.32	¢ 1.34	¢ 1.43	¢ 1.47	¢ 1.44
Rentals Received per Gallon	.94	.98	.94	1.00	.96
Excess Rental Cost per Gallon (Absorbed by Richfield)	.38	.36	.49	.47	.48

* Includes rentals on properties leased in an unimproved condition and on which Richfield, at its own cost, has thereafter installed service station buildings, tanks, pumps and other facilities.

[fol. 1011] Richfield's Investment in L. O. Service Stations as of December 31, 1950

Cost of Land Purchased	$11,213,657.33
*Cost of Improvements Installed	8,328,425.25
(Less Reserve for Depreciation)	
Total	$19,542,082.58

*These figures do not include improvements of the nature of tanks, pumps, compressors, hoists, neon signs, hiboys, etc.

[fol. 1012] Costs of Construction of Refining Facilities under Defense Supplies Contracts

(1) Defense Supplies Corporation Contract No. ND-N-2139, dated February 3, 1942, as reflected by the books of Richfield Oil Corporation	$ 2,647,395.27
(2) Defense Supplies Corporation Contract No. WD-N-30367, dated February 20, 1943, (Revised March 23, 1943) as reflected by the books of Richfield Oil Corporation	$17,854,515.59
Total	$20,501,910.86

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1019-1020

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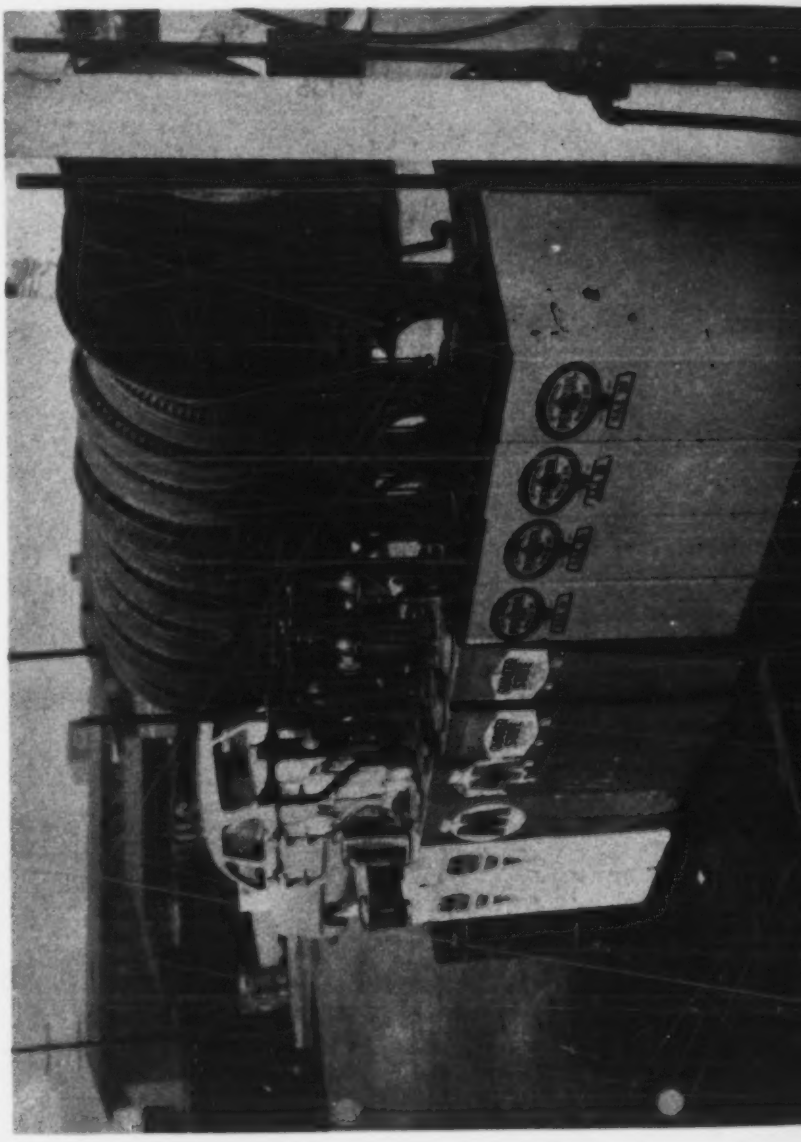

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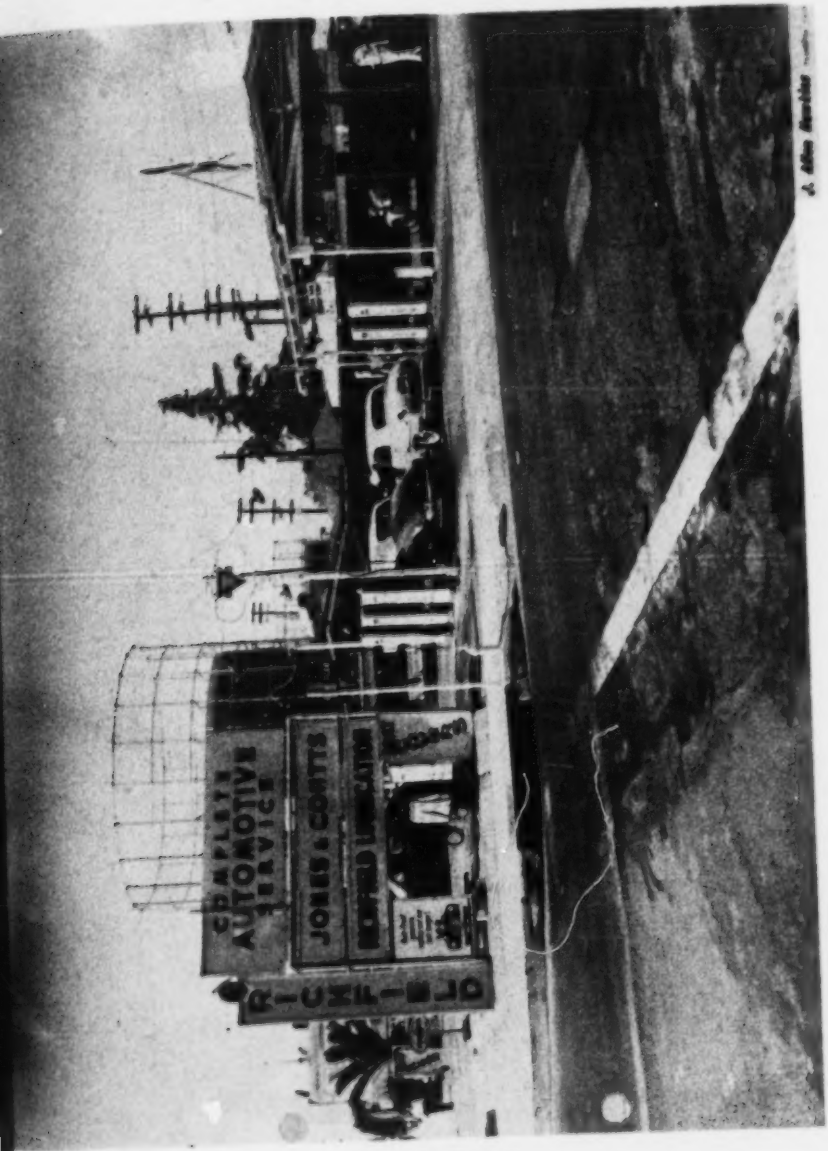

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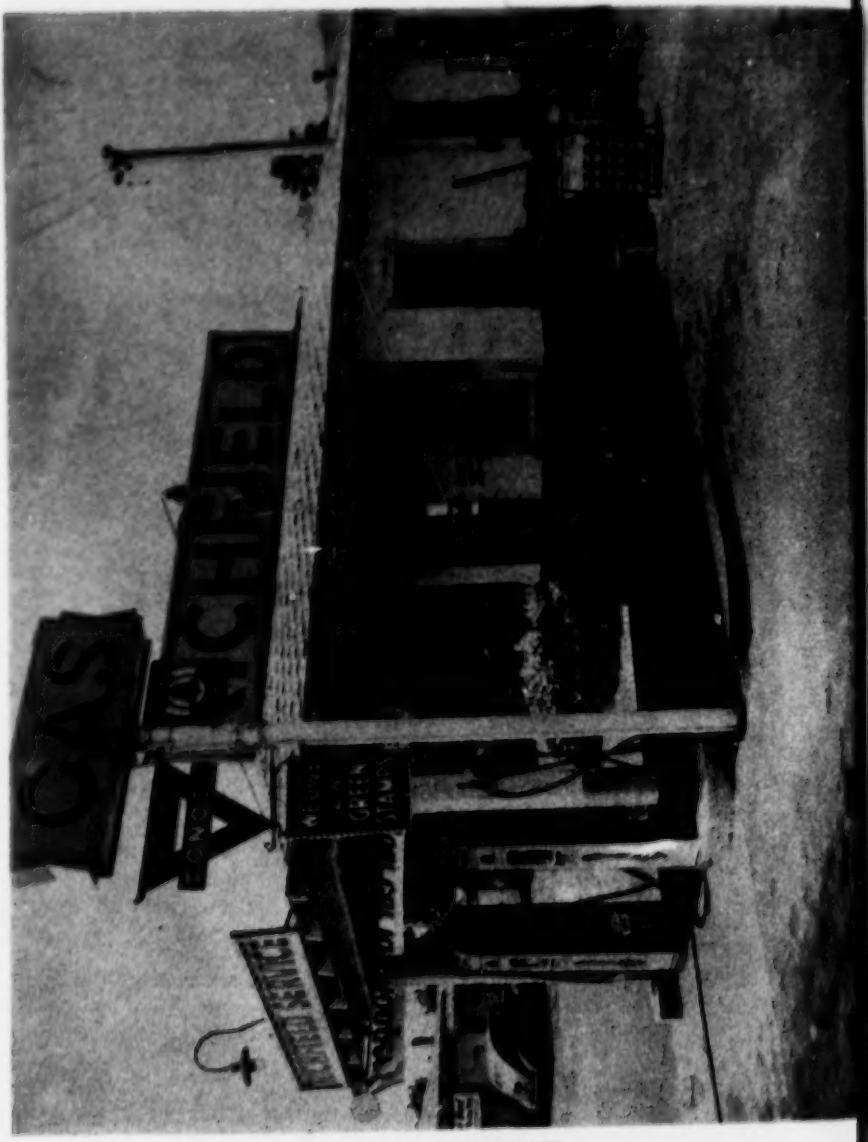

1039-1040

[fol. 1041] Richfield's refining capacity for manufacture of gasoline, both before and after installation by Richfield of refining facilities pursuant to contracts between Richfield and Defense Supplies Corporation dated, respectively, February 3, 1942, and February 20, 1943.

	Barrels per Day Motor Gasoline
1. Richfield's refinery capacity prior to installation of facilities pursuant to the contracts above described	32,875
2. Richfield's refinery capacity upon completion of facilities installed under the contracts above described*	43,580
3. Percentage of increase of capacity (2 compared to 1)	32.5%

*See supporting tabulation showing capacity of facilities installed under contracts above described.

[fol. 1042] Capacity for manufacture of gasoline of refining facilities installed pursuant to contracts between Richfield and Defense Supplies Corporation dated respectively, February 3, 1942 and February 20, 1943.

	Barrels Per Day
1. Capacity for manufacture of aviation gasoline of facilities installed by Richfield pursuant to contracts above described	15,000 Aviation Gasoline
2. Equivalent capacity for manufacture of motor gasoline of such facilities above described	10,705 Motor Gasoline

[fols. 1043-1044] WESTERN UNION

1945 Aug 15

WA420 107 4 Extra-Washington DC 15 829P
Richfield Oil Corp, Report Delivery
Richfield Bldg LOSA

You are hereby advised that this corporation desires you to reduce deliveries under the supply contracts dated as of February 20, 1943 and February 3, 1942 and any amenements thereto between your company and Reconstruction Finance Corporation as successor to Defense Supplies Corporation at the earliest possible time to the extent necessary to permit you to deliver to this corporation monthly only sufficient quantities of 100 octane aviation gasoline at contract price to enable you to repay to this corporation balance of advances made to you under the aforcmentioned contracts in the manner provided for in Section VII Paragraph (B) of such contracts.

George Stoner, Associate Director, Office of Defense Supplies.

20 1943 3 1942 100 vii(b)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951

No. 395

RICHFIELD OIL CORPORATION, APPELLANT,

vs.

THE UNITED STATES OF AMERICA

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

VOL. III

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[fols. 1045-1046] IN UNITED STATES DISTRICT COURT

Honorable Leon R. Yankwich, Judge Presiding

[Title omitted]

REPORTERS' TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Tuesday, May 8, 1951, 10:00 A.M.

APPEARANCES:

For the Plaintiff: WILLIAM C. DIXON, Esq., Special Assistant to the Attorney General; LAWRENCE W. SOMERVILLE, Esq., THERON M. HALL, Esq., THEODORE M. ALEXANDER, Esq., and T. KEISTER GREER, Esq., Special Attorneys, Department of Justice.

For the Defendant: WILLIAM J. DEMARTINI, Esq., 555 South Flower Street, Los Angeles 13, California; and KRYSTAL & PARADISE, by ROBERT E. PARADISE, Esq., 727 West Seventh Street, Los Angeles, California.

[fol. 1047] COLLOQUY

The Court: Calendar matters.

The Clerk: 6896-Y Civil, United States of America v. Richfield Oil Corporation for trial.

Mr. Dixon: Ready for the government, your Honor.

Mr. Paradise: Ready for the defendant.

The Court: All right, gentlemen, do you desire to make opening statements? You have filed memoranda and briefs, which I have read, and I am familiar with the issues.

I point to the fact that we are going to trial on the day we said we would, so that the wandering of this case has finally ended. We are actually starting to try it, and we will finish it, I hope.

If you desire to make any general opening statement, Mr. Dixon, about the turn the proof will take, you may.

Mr. Dixon: May it please the court, this is off the record.

I wish to hand to your Honor copies of a stipulation which has been entered into between counsel in this case, which covers the material which has been called for under a subpoena served on the defendants, and which in summary form covers some of the exhibits which will be offered in evidence during the course of the trial.

I think your Honor may find these helpful, particularly when [fol. 1048] we deal with the particular exhibits, which will be offered in evidence, and copies of which are contained in this stipulation.

The Court: All right.

Mr. Paradise: Do I understand, Mr. Dixon, you are filing the stipulations?

Mr. Dixon: No, they are not a part of the record.

Mr. Paradise: Should not the stipulations be filed, even though the attachments to the stipulations are not now being offered in evidence?

Mr. Dixon: I don't think it is necessary at this time.

The Court: The stipulations ordinarily are filed, because they dispense with proof, and we could give it a number, and then later on, as you offer particular documents, we will take them out of here, unless you have duplicates, and refer to them by reference.

Otherwise, this is an original stipulation, and unless it is filed or lodged with the clerk, I do not want to carry around an original stipulation.

Mr. Dixon: The purpose of handing it to your Honor, and of having the stipulation, was to shorten considerably the record in this case.

The Court: That is right.

Mr. Dixon: In other words, your Honor, may I say that there are a large number of forms that are contained in that [fol. 1049] stipulation which will not be used, and that the government has taken from the forms submitted those which it will offer in evidence.

The Court: That is correct. That is the system we followed in all these cases. In fact, when I was in the East I participated in a discussion in New York, with a committee of the Bar, and some of your opponents in the Lead case complained about the manner in which it was handled there. I said that they never did that in my court, they never threw a bunch of exhibits at me, which later they had to tie up. I said that you had to tie it up the moment you put anything in here. You probably know whom I mean.

Mr. Dixon: Yes, I heard about that.

The Court: So I told them you did not have any bad trial habits on the Pacific Coast. How you behave in the East, I don't know.

Gentlemen, it does seem to me this: A stipulation is unlike an exhibit, although as a rule they make it an exhibit. But a stipulation is there merely for the purpose of avoiding the necessity of proof, and if you are going to use any part of the exhibits, we can file the stipulation without more, and then as you come to these various documents, why, you can determine by yourself whether you want them in or not. [fol. 1050] Mr. Dixon: That was the point, your Honor. We have already taken from, for example, the first form——

The Court: All right. Have you got a copy of this?

Mr. Dixon: Yes, sir; and counsel for the defendant has also.

The Court: You want me to have the original?

Mr. Dixon: Yes, you may have the original of both of them.

The Court: Very well, we will consider it lodged with the clerk, so it will be a part of this just for convenience.

Mr. Dixon: If your Honor wishes, we will be glad to file it formally.

The Court: That is all right. The first time, you know, I let you gentlemen do as you please. After a few days, when I begin to understand the case better, I may want to substitute my methods for yours. So if you think it is better not to file it but to wait until you actually want to use it, all right. I will defer to your judgment.

The Clerk: The document is lodged, your Honor.

The Court: All right.

Mr. Paradise: Am I to understand that the exhibits, then, are considered not filed as at this time?

Mr. Dixon: That is right.

Mr. Paradise: I mean the stipulations are considered as not filed?

The Court: That is right.

[fol. 1051] Mr. Paradise: Thanks.

The Court: They are not in evidence. They are merely lodged with the clerk so he may have their custody, because I do not carry away with me any official documents, and if anything is lodged it then becomes official.

You remember—I don't know whether you do—but one of our very prominent attorneys here, one of the veterans of the Bar, Mr. Newby, once got into difficulty by scratching out something in a judgment that he thought he had a right to because he had offered the judgment, only to find that technically he committed an error by scratching a line out of the judgment that had already been filed, and it resulted in a famous libel suit that he brought against the Los Angeles Times, Newby v. The Times, etc. So we have to be very careful whether a document is part of the record or not. All right.

Opening Statement

Mr. Dixon: May it please the court, the Government wishes to make a short opening statement concerning this case, which we believe is substantially the same in character

as the case previously decided by this court against the Standard Oil Company of California.

This case, in substance, attacks in the complaint filed by the Government the so-called exclusive dealing type of arrangement between the defendant, which is a producer, marketer and distributor of petroleum products, and the [fol. 1052] various operators of retail outlets situated in a six-state area of California, Washington, Oregon, Idaho, Nevada and Arizona.

The defendant is a manufacturer and distributor and producer of petroleum products. It is not a manufacturer of automotive accessories. The complaint in this case involves both types of products, that is, the restraints on the sale in interstate commerce of both petroleum products and automotive accessories.

The Court: And by "accessories" you mean a term which covers anything from tires to, say, pumps or things like that, or fan belts or things like that. Is that what you mean?

Mr. Dixon: That is right, your Honor. The term as used in the complaint is defined on page 2 thereof, but, as your Honor indicates, that term, briefly, deals with tires, tubes and various other automotive accessories that are purchased by the motoring public at retail outlets for use or consumption in motor cars.

The Government expects that the evidence will show in this case that during the last year the volume of commerce which is involved in this complaint and which the Government contends is subject to restraints approximates between forty-three and forty-five millions of dollars. Of that amount in excess of thirty-seven million is represented by the sale of gasoline, in excess of two million by oils and [fol. 1053] greases, and between three and four million in automotive accessories.

The Government expects the evidence will show that there are approximately 3,183 retail outlets that are involved in the restraints complained of, and that these retail outlets are situated in the six states mentioned.

I mention this because the complaint alleges the restraints being operated on 2,600 outlets, whereas the evidence will show that in excess of 3,100 outlets are actually involved as of the end of last year, 1950.

The evidence will show here that there are two types of

arrangements which involve the restraints complained of, one written and one oral; that in affecting the restraints there are, briefly, about four types of arrangements involved.

The first is that which is referred to as an "LO" type of arrangement in the stipulation and will undoubtedly be referred to in that manner in the evidence. That represents an arrangement where the defendant company owns or holds the underlying lease of the propery and subleases that property to the operator of the service station outlet. There is nothing contained in that lease which deals with the purchase or sale from this defendant of any products whatsoever. That transaction is handled entirely on an oral basis and understanding.

Almost of the same type, but——

[fol. 1054] The Court: What method is provided for rental, a portion of the profits or a straight rent?

Mr. Dixon: No, your Honor. The rental provisions in the lease——

The Court: In this group they call the LO?

Mr. Dixon: In this group——

The Court: Yes.

Mr. Dixon: ——are specific as to amounts. In other words the operator is obligated to pay a minimum specified rental per month and then, in addition to that, the rental steps up in amount based upon the gallonage of petroleum products sold at that outlet by the operator. And the manner of determining that increase of the rental is generally based on a cent a gallon, although the amount may vary under different circumstances.

But, as I suggested, there is nothing whatever contained in the lease to the operator which provides that the products of the defendant, as such, shall be sold at that outlet. That is a matter entirely of oral arrangement between the operator and the defendant.

Now, there are over 1,343 outlets that might be placed in that category as of the end of last year, 1950.

A second type of arrangement is what is called a "3-C" type of arrangement. That is a situation in which the operator owns the underlying fee or the lease and he leases the station to the defendant, the defendant subleases it back [fol. 1055] immediately. The rental provisions in the lease

may vary but they are generally the same, namely, a specified amount of rent is fixed but it, as I have suggested, may vary between the lease and the sublease. In other words, the operator may lease it to the defendant for $10.00 a month, say, minimum rental, and then there may be a sliding scale, and then the lease back may be on the same basis, $10.00 a month as a minimum rental.

But the difference between this situation and the first type is that there is a sales contract that is entered into between the operator and the defendant covering the purchase of petroleum products by the operator from the defendant; so that we will have in this type of arrangement three documents which are generally executed at the same time and are really in effect one transaction, although, as will develop from an examination of these documents, the rights of the lessee—or I mean the operator under the sublease, etc., vary differently from those which are given to the defendant.

The third type of arrangement is that in which there is no lease involved at all but a sales contract is entered into between the defendant and the operator, and generally, at the same time, a painting agreement is also entered into. We will offer that type of arrangement into evidence, and the provisions of those contracts will be involved in this case.

[fol. 1056] I forgot to mention in the second type of arrangement, as of the end of last year, there were 261 deals of that type which, from the point of view of the Government, are very similar substantially to those of the first type mentioned.

There are about 1,361 of the third type of arrangement that I mentioned involved in this case.

And then the fourth type is that where there is nothing in writing, just an oral arrangement between the operator and the company.

So that, as I indicated, in this case there are in excess of 3,100 outlets, retail outlets, involved which the Government contends are subject to the restraints complained of in the complaint.

Now, I mentioned the fact that the defendant does not manufacture automotive accessories. It does, however, distribute those accessories and provides for a manner of

distribution of automotive accessories through the various outlets involved in this case.

The manner of operation with reference to automotive accessories is this: That the defendant has contracts with various automotive suppliers, that is, the suppliers of automotive accessories, providing that those suppliers will supply the defendant with the products covered by those contracts.

[fol. 1057] The defendant operates in the distribution of its petroleum products a large number of so-called bulk plants located throughout the six-state area I have mentioned.

The operator of that bulk plant outlet is generally a commission agent, so-called, who takes the petroleum products on a consignment basis. He does not buy them from the defendant, but he distributes, that is, the petroleum products to the retail outlets involved in this case and at the same time this bulk plant operator also performs the function of a distributor for the defendant of the automotive accessory part of the case. The distributor generally purchases the automotive accessories from the defendant; that is, it is an accounting arrangement. He determines the need of the particular area in which he is operating so far as those products are concerned, and generally transmits that need in an order to the defendant, who, in turn, then provides that that be delivered by the supplier to the distributor.

The distributor may also order directly from some of the other suppliers, and as to those transactions the defendant receives an overriding of, I believe the evidence will show, about 10 per cent of all business of that type that is done.

The evidence will show that these distributors may sell some automotive accessories to outlets other than these defendants—I mean, the outlets involved here, but that he is not to deal in any automotive accessory competition than [fol. 1058] those that are sponsored, so-called, as the term is used in the complaint, by the defendant. In other words, the defendant provides for a specified list of automotive accessories that the distributor is to handle, and then the distributor handles those by the method I have suggested, and these are the accessories that are distributed to the retail outlets in that manner in this case.

Now, it isn't exactly clear from the answer that was filed in this case as to whether or not there is any question about interstate commerce being involved in the transactions that I have described. We will, therefore, perhaps have to go into that, at least to some extent, but we submit that on that point there is a constant flow of the petroleum products here from the refineries of the defendant to the retail outlets, and that the control of those products is at all times retained by the defendant, until it comes to rest in the tank of the retail operator at the retail outlet, at which time the title to the gasoline and petroleum products changes to the operator from the defendant; and that it goes in a constant stream of commerce from the refinery by way of barges, tankers, and trucks to the bulk plants, and from the bulk plants to the retail outlets; that substantially the same method applies with reference to the automotive accessories that I have described and which are referred to in the case. [fol. 1059] Now, it is the contention of the government that there is no real difference between this case and that previously decided by your Honor in the Standard Oil of California case; that there may be some slight difference in the methods used and the mode of operation employed to effect the restraint, but the restraint here consists, I mean is evidenced, as in the Standard case, by written and oral arrangements, and by a course of dealing between the defendant and the operators of these various outlets.

If we understand the amended answer of the defendant, as pointed out in our brief, there appears to be an apparent concession on their part that the L-O type of station at least, is comparable, they claim, to the company-operated station, which was involved in the Standard Oil of California case. In other words, the amended answer of the defendant seems to indicate that their defense to the charges made in the complaint is based on the fact that these stations, at least, are company-operated stations, as were the some 1,100 outlets in the Standard Oil case, which were operated by Standard Stations, Inc., the other defendant in that case.

But your Honor, of course, is familiar with the findings of fact which were made in the Standard Oil case, and is briefed in that case, and with reference to these stations and all of the stations involved here, the government con-

tends that there is no employer-employee relationship exist-
[fol. 1060] ing between the operators of these outlets and this defendant, and that the operators of these outlets, whatever they may be called, are independent businessmen, buying and selling petroleum products and automotive accessories, and engaged in that type of business in these outlets, and that on the basis of your Honor's decision in the Standard Oil case that the same decree and the same judgment should be entered against the defendant at the conclusion of all of the evidence in this case.

We regard the law as well established by your Honor's decision, and we submit that it applies directly to the type of restraint involved in this case, and that it is substantially the same restraint, and that the differences as between the two cases from a point of law are non-existent.

There may be a lesser volume of commerce involved here than in the Standard case, but it is still an appreciable segment of commerce, which this court has previously held cannot be restrained under either the Sherman Act or under the Clayton Act by the type of contract which provides by the defendant's provisions, whether written or oral, that the operator of an outlet of the type involved here is to deal exclusively in the products of the defendant and those in the automotive accessory field which may be sponsored by that defendant.

The Court: All right.

[fol. 1061] COLLOQUY

Mr. Paradise: With the permission of the court, the defendant would prefer to reserve its statement regarding the facts until the opening of the defendant's case. Under those circumstances is it appropriate to comment on some of the issues referred to by Mr. Dixon?

The Court: No, I think it should be either one way or the other. I think either you should make a full opening statement, disclosing what your defense is, or if you leave it until your case, then you leave it.

Mr. Paradise: I would not comment on the facts.

The Court: Then I would not comment on it in any way.

Mr. Paradise: I see.

The Court: In other words, if you prefer to wait until the end of the government's case rather than to disclose the

nature of your defense now, I will let you do that. But to comment merely on their theory, without disclosing the defense, would not mean anything.

Mr. Paradise: Perhaps under those circumstances, your Honor, I would like to make an opening statement.

The Court: All right. That is up to you.

Mr. Paradise: The court has mentioned the preliminary memoranda——

The Court: I may say, gentlemen, that the opening statements are considered so important in these cases that, while I was in New York, the fourteenth week of the opening state-
[fol. 1062] ments in the Bankers case was still going on.

Mr. Dixon: You do not recommend that, do you, Judge?

The Court: Without any criticism as to what Judge Medina does, I say that, because there are just as many varieties of judges as there are Heinz pickles. I merely mention that. In fact, I was in conference with Mr. Dean, who represents one of the groups. But I am just emphasizing how judges consider opening statements, to the point where they take fourteen judicial weeks to hear what counsel intend to prove.

Mr. Paradise: The defendant's position, I might state at the outset, is largely set forth in some detail in the defendant's opening memorandum which is on file.

The Court: I want to make one observation before you begin. This complaint is based both on the Clayton and the Sherman Act. Insofar as the law of the case is concerned, the Supreme Court only passed in the Standard Oil case on the Clayton Act, and never got to the other, because they said it was not necessary. So that, so far as the portion of the opinion in which I dealt with the other phase is concerned, while still meeting with my approval, it stands just as my own opinion in interpreting the law, as I then viewed it. So, so far as the final decision of the Supreme Court is concerned, it was grounded upon one phase of the case made out in the lower court. I am making this observa-
[fol. 1063] tion in line with what you argued in your brief, that there are many phases in the case which are contained in my opinion which are not reflected in the Supreme Court decision. To that extent I agree with your interpretation of that case.

Mr. Paradise: Yes. I should like to say at the outset that there is the sharp differentiation between the types of service station involved, which Mr. Dixon has mentioned to the court. There are, first, the L-O type of station, which is a station owned or leased by the defendant Richfield, and which is operated by the so-called L-O operator, who is not the lessor of the station, and who is completely divorced, other than by his Form 542 sublease, from and does not have any other interest in the station.

The Court: What does "L-O" stand for?

Mr. Paradise: "L-O" is an abbreviation for Leased Out.

The Court: Oh, Leased Out.

Mr. Paradise: The other types of service stations are the so-called 3-C, and I can't tell the court what that refers to. It is an arbitrary symbol. That is a service station, as Mr. Dixon mentioned, which is owned or leased by the service station dealer himself. He leases it to Richfield, and takes a sublease back, under forms of written contract which are co-extensive in term, and, in addition to that, there is a printed form of sales contract.

[fol. 1064] The third type of service station is the so-called 337 contract, which also is an arbitrary symbol, and which refers solely to a written sales contract, which may under some circumstances also be accompanied by a painting agreement, as Mr. Dixon mentioned.

Mr. Dixon also mentioned, and I say this to your Honor for the purpose of clarity, since the issues are decidedly distinct and different with respect to the two types of cases. Now, as to the L-O stations, which are Richfield's own stations, the evidence will show that these are Richfield stations that were acquired for a particular purpose, that the operators are selected in a particular manner, that they are instructed along certain lines, that they are permitted to occupy the station under certain conditions, that the tenure of their occupancy is on a very short term basis, to implement the right of Richfield to control not only the type of product that is sold in the station but also the manner of the operation of the station, the manner of maintenance, the manner of customer dealing, and the various other aspects of a mercantile establishment.

Therefore, as to the L-O type of station, Mr. Dixon quite properly stated that insofar as those stations are concerned the defendant acknowledges that it controls the operation of the station, not only as to the type of products which is Richfield petroleum products as well as the automotive [fol. 1065] accessories under certain circumstances which may be sold there, but also the manner of the operation of the station itself.

The issues, therefore, as to the L-O stations are, primarily, whether under the facts and circumstances, all of the circumstances concerning the station itself, Richfield's purpose, the manner of the operation, the control that is used, and so forth, is lawful or unlawful in the light of the facts and the circumstances.

Now, as to the other types of stations—before I leave the L-O stations, I should mention that the complaint charges and Mr. Dixon's opening statement asserts that the L-O station operators are, one, independent, and that they are independent businessmen, which is the assertion in the complaint and in the opening statement and, two, that they are not employees of the defendant.

The nature of the relationship, those two alternatives, the defendant feels most strongly is not a proper statement either of the issues in this case, nor of the alternatives.

The defendant suggests, and the defendant's pleading and memorandum disclose that the proper statement of the issues and of the alternatives is whether they, the L-O operators, are independent operators, on the one hand, or on the other, are not independent businessmen. That, I think, must be contrasted sharply with the government's [fol. 1066] position, that they are either independent businessmen or agents or employees.

That type of alternative neither proves anything, nor is it even relevant to this case. I would like to develop that for the court at somewhat greater length, if I may.

Richfield's position is that these men are not independent businessmen, under the circumstances which will be shown to the court by the various witnesses. Richfield's original memorandum discusses the reason why relationships of the nature of an agency or employment have not been held to be within the scope of or violative of either the Sherman or the Clayton Act. It is the defendant's position that the

nature of the relationship which is exempt from the anti-trust laws is, however, not limited to either agency or employment, but that those types of relationships are merely illustrative of a broader principle, and the broader principle which is involved, and the nature of that broader principle must be determined from the reason which exists for the exclusion of those types of relationships. The broader principle is whether or not there is competition, and the subject-matter of the competition.

The court is well aware, of course, from your Honor's past experience in the anti-trust field, that the purpose of the anti-trust laws is to protect and foster competition, and to protect it, and to invalidate restraints upon com- [fol. 1067] petition. It must be a necessary corollary of that purpose that if there is no subject-matter of competition, if there is no play of competitive evidence in a particular matter, if it is not a subject-matter of competition, or is not a market, then the competitors are not hurt.

We submit that the reason why an employer may tell his employee in a store why he cannot sell the products of someone other than the employer is that that business, as carried on in that store, is the employer's own business, and it is not the subject-matter of competition between that employer and a competitor of the employer.

Take, for example, Bullock's Department Store. I think Bullock's is entirely justified, and I am sure both the court and the government will agree that Bullock's is entirely justified in telling its employees they are not on their own account and for their own account to buy the products of Robinson's and sell them in Bullock's place of business for their own profit. The same proposition and the same analysis and reason underlies the so-called agency, exempt from the antitrust laws, and there are other relationships over and above the illustration of employment or agency.

Those relationships are pointed out in the defendant's opening memorandum, relationships such as partnerships, relationships such as, in the absence of employment or [fol. 1068] agency, where there is a relationshp of trust and confidence, where there is an intimate relationship, in the words of Mr. Justice Douglas in the Masonite case, where a particular employer or supplier—I will use the word "supplier"—where a particular supplier has furnished

the instrumentality of doing business under circumstances where he maintains such control over the type of use to which that instrumentality is placed that he is entirely justified in maintaining the control over that use, and under circumstances where the business so conducted never does become the subject-matter of competition.

Therefore, I think it is a complete misnomer and a false conception for the government to assert that they are either employees or agents, on the one hand, and/or businessmen on the other. The alternatives are most certainly not that.

Differently stated, the government in its memorandum has suggested that the alternative may be between an independent contractor, on the one hand, and an employee or agent. I submit that it is most certainly true that if a man is neither an agent, nor an employee, that he is an independent contractor, for purposes of social security taxes, for example, or tort liability, pay roll taxes, workmen's compensation, and so on.

The Court: The government's idea is based upon the [fol. 1069] proposition that certain categories have been developed, and that in interpreting legislation, particularly social legislation aimed to achieve a certain object, it is to be assumed that the courts had in mind the ordinary category. So that when we speak of an independent contractor, we mean an independent businessman, and we mean a person who is recognized in common law jurisdictions as having the characteristics which an independent contractor has. When you speak of an agent or an employee, we consider them, and then if there are other relationships, such as landlord and tenant, we must bear in mind the ordinary rubrics which have developed in this law, and which the courts adhere to very strictly. In fact, the Supreme Court itself, in another case of mine, also entitled U. S. v. Standard Oil, were dealing with a soldier's case, where I sought to establish liability on the part of a tortfeasor to the government for loss of wages and hospitalization of a soldier, and the Supreme Court, with only one dissent, said that was creating a non-common law relationship, which is not recognized, and simply held that whatever the relationship between the government and the soldier is, it is not one

recognized at common law as to which the doctrine of liability applies.

[fol. 1070] So that we are always confronted with that proposition. Of course, names and labels must not be made heedlessly, and we have an expanding economy. We have come to recognize a certain relationship may be of one character and have the indicia of one character, and yet not partake of that particular character.

Early in my career as a judge of this court I was confronted in the Owl Drug case with the problem whether one of these arrangements whereby a merchant was given a portion of a store in which to conduct his business was subject to certain controls, and where, in lieu of rent, he paid a portion of profits, what relationship that established. It was argued that that relationship had none of the characteristics of the old-fashioned relationship of landlord and tenant. Nevertheless I held that it has. It is a modern counterpart, and I am happy to say that every book on agency law and every book on relations and every book on interest on real property contains that case because it was an application, at the time novel, of the characteristics of a special form of relationship which had its counterpart and which, if you judge by the strict standard of leasehold obtaining at common law, would be a nameless child.

So why I emphasize it is the point that in interpreting legislation and interpreting exceptions, whether they are contained in a statute or whether they are established by [fol. 1071] law, we have to bear in mind they use the words in the sense in which they are ordinarily used.

We have great difficulty with administrative agencies. I remember in the early days of the OPA I was confronted with this problem. The wholesalers were allowed to charge a certain price for delivered sales. I do not know whether you are familiar with this big market, this wholesale produce market, which operates chiefly at night down below Julian Street in Los Angeles. It operates from about 12:00 o'clock at night until 6:00 o'clock in the morning. It developed in that case that many of the buyers would bring their products into the neighborhood five or six blocks away and that the jobber would have his man transport the produce that

was bought and delivered it onto the truck. And the OPA said, "Why no, that is not a delivered sale. It is too close."

I said, "Well, as to a delivered sale, the word 'delivery' must be interpreted in the ordinary sense." I wrote an opinion and pointed to the fact that, for instance, they were talking about crates of oranges in that case and I said, "If the employee of the jobber should drop the crate and break it, the loss would be his. If the employee of the jobber should be hurt, the liability would be his." So that there actually was no delivery of the goods until they were placed upon the truck, and it did not make any difference whether that truck was on the next street or out in Hollywood.

[fol. 1072] I am giving you these illustrations to point to the fact that constantly we are confronted in the law with a problem as to the sense in which the words are being used in legislation, and the teachings of the Supreme Court are that you use them in the sense in which they are used for common use, unless they have become words of art, in which sense they have acquired a different meaning.

Recently when I was sitting in Seattle, in the Western District of Washington, Northern Division, I was confronted with a problem which has confronted many judges as to what the Congress meant by a foreign state or a foreign country. And I said that they used the word "foreign" in the sense in which the American people use that word. That means something other than the United States. When you speak of a "foreigner" you mean one who is not an American. And I said that they are not authorities on international law and I was not interested how Mr. Jessup or Professor Oppenheim or Mr. Hyde or the other authorities on international law interpreted the words "foreign state." I am interested in how the Congress used it, and the Congress meant a country which is not a part of the United States is a foreign state. I referred to the famous case in which Mr. Justice Cardoza was confronted with the words "a white person" in the Naturalization Statute and it was argued that, by ethnology, Hindus, especially high caste Hindus, were white, were Caucasian. But Mr. Justice Cardoza said that when they used "white" they used it [fol. 1073] in the sense in which the average man, and the man who was as much colored in his pigmentation, as the Hindu is, regardless of ethnology, is not a white person.

So I think that this is the point we have to bear in mind, and that is, that in interpreting this type of legislation when they use the word "agent", when they use the word "employee" they meant a certain relationship. And if there are relationships which are not covered, then you have to cover, first, are they of the type which correspond to those covered.

We cannot create agency and say this is something that Congress never had in mind or the courts never had in mind.

Mr. Paradise: I agree in terms with your Honor's statement and I think it is along the same lines that I was attempting to develop. When we are interpreting legislation of the nature of social security taxes or workmen's compensation under the California laws or the laws of other states, and those laws use the word "employee" and define it, the question is whether the relationship between, for example, Richfield and its L-O operator is strictly that of employee as the word is used in the statute. And when referring to the doctrine of respondeat superior of tort liability then the question is whether or not the relationship between Richfield and the L-O operator is that of principal and agent for the purposes of tort liability. We must determine whether or not he is an agent.

[fol. 1074] But neither the Sherman Act, Section 1 under which this case is brought, nor the Clayton Act, Section 3, which is also in issue in this case, uses the word "employee" or "agent" and the exemption from the operation of those statutes does not depend upon a statutory use of the words, nor does it depend upon a statutory definition of the words.

And therefore I think, your Honor, that one of the important problems in this case is to search out the background and the reason and the underlying basis for the exemption from those two statutes of the relationships of employment and agency and all the other relationships which have been exempted, such as those which are referred to in the defendant's memorandum and then ascertain whether the facts in this case, the relationship between Richfield and its L-O operators under the circumstances herein involved measures up to and is the equivalent for the purposes of the reason of the exception for those rela-

tionships which have already been exempted. I think to restate it would labor the point.

However, I think that the Government's statement of the proposition is of the issue which is involved, and also the Government's statement of alternatives which are involved is incorrect. Implicit in the Government's statement of the issues is the assumption that if a man is neither an agent nor an employee, then he must be an independent business- [fol. 1075] man. I submit that the cases cited in the defendant's memorandum sharply refute that proposition.

I think that the Government has confused the problem as to whether there is an independent businessman relationship, which is the problem here, from the question as to whether there is an independent contractual relationship, which is not the problem here. Because, if a man is not an independent businessman, it matters not whether he is an independent contractor or is not an independent contractor.

If this L-O operator is not an independent businessman, he may be an independent contractor for the purposes of workmen's compensation tort liability and others, because in determining tort liability and social security taxes, as the court has pointed out, we have two problems: One, we have the problem of statutory definition, in one sense, whether it was the particular word used. We do not have those words here to define.

More importantly, in determining the status of a man as an employee, on one hand, or an independent contractor, on the other, the test is not the question as to whether or not there is a subject matter of competition or whether there is a market or whether there is a restraint on competition, and those are the factors that must be borne in mind in determining whether he is an independent businessman for antitrust purposes.

[fol. 1076] I believe that the Government's statement of the proposition puts form over substance entirely. The Government has charged two types of effects in the complaint in this case. One, it is said that is Richfield's control over its L-O operators deprives other suppliers of petroleum products and it harms competitors in that they are unable to sell their products to Richfield's L-O stations.

The Court: Well, that is the criterion which the Supreme

Court emphasizes especially in the Chicago Taxicab case, the shut-out. It is the shut-out.

You will remember in my own opinion at that time the greatest emphasis was placed upon that case, and then on the very day on which the original opinion was filed the Columbia Steel case came out. Then I had the job of distinguishing the Columbia Steel from the other problem and determining whether or not the problem which the court propounded there had the effect.

Of course, that is material only on the Sherman Act phase, and that is the phase that the court did not get to in the Standard case because there we were dealing with the actual effect, while under the Clayton Act we catch in an embryonic state what, if they were allowed to develop, would actually result in the particular restraint.

Mr. Paradise: The significance, however, I believe, your Honor, is broader than that. I agree that there are two [fol. 1077] problems, one as to the effect of the Sherman Act purposes, and two, the test which your Honor as well as the Supreme Court imposed upon the qualifying section or section 3 of the Clayton Act for the purposes of determining the illegality under that section.

But is there not the further significance to the effect on competitors in this sense—and I say this for both Sherman Act as well as Clayton Act aspects—if there is no subject matter of competition, if there is no market, there can be no effect on competitors because competitors may not look to this business as their legitimate business. And I think that must be true if one approaches it from the original matter of relationship between an employer and an employee on a wage basis. To go back——

The Court: The Supreme Court throughout the history of the Act has held that you cannot cloak a relationship in one way so as to prevent an inquiry into the method of control.

We had the Hardwood Lumber case where there was the loosest kind of relationship, and we had the San Francisco Contractors case and there was a loose kind of a relationship. It was argued this is nothing, this is just a group of gentlemen meeting at their own club and discussing their problem. But the court said: Nay, nay, nay. We are going

to go behind this and we will see behind this so-called [fol. 1078] voluntary testimony.

After all, the Associated Press existed for many years as an eleemosynary corporation in the City of New York, until the Supreme Court brought it down to reality. And I myself recognized it as an eleemosynary corporation many years ago and held that because of certain restrictions they had in there the agreements were not in violation of the antitrust laws. Since that time the courts have departed from that concept and the Supreme Court was the one who gave the signal, and now individual newspapers have been found guilty, as Judge Emerich Freed did in Cincinnati, I think it is.

Mr. Dixon: Cleveland.

The Court: What is it?

Mr. Dixon: Cleveland.

The Court: Cleveland. And I just noticed in my copy of Editor and Publisher. There is a new one started in the south.

So that in considering the problem of whether there is stifling of monopoly and the shut-out, the prevention of access to these outlets to the makers of other products, we are not concerned with the term that the parties have applied to the relationship, but what it actually achieves.

Mr. Paradise: Yes, sir.

The Court: Because in the last analysis that is the [fol. 1079] pragmatic approach to these problems. And if as a result of outright ownership there is a foreclosure of access to the market, then the violation exists regardless of what you name the relationship, because we are not talking about competition in the abstract.

Incidentally, I presume both of you are aware of the very fine issue of the University of Illinois of their Forum was devoted entirely to antitrust problems in its winter issue of 1950. I happened to learn about it because my son is an assistant professor of chemistry there and on my way east Dean Harno heard of my presence in Urbana and was kind enough to invite me to lunch with the faculty, and I found they presented me with that issue which has a discussion from that standpoint, although only one government man was represented and he is a very able one, and that is the head of your Decree Department, Mr. Timber. That review

has a very fine series of articles on various phases of the problem of monopoly in the light of late decisions.

So to sum up the observations I am making, and that is this: We have to determine not what your L-O relationship is but whether it is of the type which lodges a control in one person or another. If under one guise or another it lodges control in the lessee, then we have to determine whether under that relationship an outsider has a right to expect to deal with the particular person. If he is free to [fol. 1080] deal, then the answer may be one. If he is not free to deal, then the answer may be a different one.

And incidentally, Professor Carlson of the University of Illinois is publishing an article in the American Economic Review, I think it is. He read it to me. In which he propounds a new theory of interpretation of law, and that is more like the theory which counsel for the defendant propounded in the Standard case. He calls it "freedom of choice from the standpoint of the consumer" and he would say, for instance, that if, notwithstanding the control of outlets, there are in the same area outlets or other concerns to which the consumer would have access, then that freedom of choice—there would be no violation of the law. He is a lawyer and economist, and I told him it was a very interesting concept but there is not any law to support it, because, I said, "If you are right, I think then the Supreme Court was wrong in the Standard case."

So I think it is a good idea to talk some of these things over, then we will know what to expect when it comes to the scope of proof. I think you have a right to show or to argue from the Government's testimony that, regardless of what the paper work shows or regardless of what the oral agreements are, in reality a relationship exists which entitles you to exclude dealing by others. In other words, you can bring up the Pick case which I still think is good law. In fact I think you conclude your brief with that case. I still [fol. 1081] believe that the Pick case stands unimpaired and that you may provide for an agency that excludes others and that in itself is not a violation of law. But that even under the guise of a legitimate agency, it is actually shown that the effect is to affect interstate commerce, not through the sale of goods locally after they have been placed with the agency. I think the Pick case does not solve the problem.

And you will remember that in the Standard case, if you read the opinion, it was the Government's contention—I think that was abandoned on appeal—at any rate it was contended in my court by Mr. Dixon that even contracts of that character are illegal per se. But I would not follow him and merely held that they are not illegal per se. But if they are effective to restrain commerce, then their original legality turns into illegality because of their effect. And I think your contention is the same in your brief, as I read it.

Mr. Paradise: Yes, insofar as our reference to the Pick case is concerned, your Honor, I think our memorandum will show we cite the Pick case solely in connection with the question of the problem of illegality per se and the question of fact under the Clayton Act, and further, with this differentiation, we cite that ultimately in connection with the so-called independent stations. Those are the 3-C stations and the 337 stations.

I feel that that Pick case has no bearing on this problem of the relationship between Richfield and the operators of [fol. 1082] L-O stations. There was no agency involved there, if my recollection is correct, nor in the Pick case were the dealers in General Motors cars which were involved anything other than independent businessmen, now were they asserted not to be independent businessmen by General Motors in the case.

I agree entirely with your Honor's statement that the characterization by a title of a relationship, whether it be agency or employee or any different relationship, does not and cannot and should not preclude the court from inquiring into the exact nature of the relationship. I think that is abundantly clear by Mr. Douglas' statement in the Masonite case where agency was involved or an agency problem was involved as a defense, and Mr. Douglas said—and it is referred to in that brief, and I think it is most pertinent here:

> "So far as the Sherman Act is concerned, the result must turn not on the skill with which counsel has manipulated the concepts of 'sale' and 'agency' but on the significance of the business practices in terms of restraint of trade."

[fol. 1083] Now, really, your Honor, that is, I think the meat of this case: What is the nature of the relationship between Richfield and these operators, and not only just the relationship, but also all the circumstances that are involved. In your Honor's suggestion a moment ago you had reference to ownership of the stations. I would like to make the court aware that we are not basing Richfield's position, insofar as the L-O operators are concerned, entirely on the ownership of these stations. We believe that if Richfield bought these stations, and put them out to independent operators on a long-term lease—I mean L-O operators on a long-term lease of, say, five years or ten years, or a substantial period of time, the precise term being unimportant, and with no reservation of the right to control them, and with no reservation of any conditions on which he must operate these stations, in a manner which Richfield controls, I think Richfield might very well, as well as any other suppliers in a similar position, permit the lessee to become an independent businessman.

Richfield, however, has not done that in this case, and it has these stations, as the court will see from the evidence, for a particular purpose, and it has maintained that purpose in its selection of the L-O operators, and in the conditions under which they are permitted to operate Richfield's own property for the sale of its own product.

[fol. 1084] Therefore, I say that in the government's approach to this matter, in saying these men are neither agents nor employees the government is putting form over substance. It would not make a bit of difference in the result on a competitor.

I mentioned a moment ago that the government has complained about the inability of competitors to sell their products to these stations. Well, if the form were different, and if these men were paid a salary as employees, the effect on the competitors would be identical, and yet the government would not contend in that case that there was any violation.

So the court is faced in this trial with determining what precisely is the relationship, and the reason for the relationship, and whether these men are independent businessmen, on the one hand, or are not independent businessmen, and whether this is properly the subject-matter of competi-

tion, and whether this is a market. The fact that they may not be employees or agents I think is neither conclusive, nor is it even relevant.

We have not contended that they are either employees or agents in the strict common law concept of the word, and I don't think it is important whether they be or not. The issue here is whether they are independent businessmen.

Now, I would like to turn to a different problem. Mr. [fol. 1085] Dixon in his discussion of the various types of service stations here involved mentioned that there were four: the L-O station, which we assert is where we do control the products and control a lot of other things, and intend to do so, on the one hand, and the 3-C and 337 stations, which we contend, while we acknowledge that they are independent businessmen—they are independent businessmen, and they are buyers on the open market, and the relationship at Richfield and any of its competitors is solely that of buyer and seller, and we, of course, in the issues in this case deny any restraint whatsoever insofar as those people are concerned. Mr. Dixon mentioned, however, a fourth type, and that is the so-called uncontracted station.

Now, in response to the government's subpoenas and interrogatories, we have given certain data concerning Richfield's sales, the quantity of the sales, the volume, the dollar value of Richfield's sales to the uncontracted stations. We have always maintained, in responding to those requests by the government, that while we were perfectly willing to comply with their reasonable requests, and we have given them a great deal of information in the light of your Honor's concept of free exchange of information in a case of this sort, we have always contended that any data or testimony or evidence with respect to the so-called uncontracted stations has no relevance to any of the issues of this case.

[fol. 1086] The Court: I will rule on that when the question arises.

Mr. Paradise: You prefer that that not be discussed at this time?

The Court: No, I do not want to discuss legal problems. I want to hear a general outline of your approach. We will be interested in specific legal problems as we come to them.

Mr. Paradise: The last matter which I would like to

mention is Mr. Dixon's reference to the decision in the Standard case. It would be presumptuous of this defendant to tell this court what was decided in the Standard case, of course, but your Honor will appreciate that in the preparation of this case it has been necessary, inasmuch as that is the leading authority in the matter, to become most familiar, not only with what the Supreme Court and your Honor ruled on the subject, but also the issues, the rulings, and the evidence, and we submit that the record, as well as the decision of this court and of the Supreme Court, sharply refute the government's suggestion in its memorandum and in its opening statement that there has been anything determined in the Standard case which has any bearing on the issue of the nature and relationship between Richfield and the L-O operators, or the significance of that [fol. 1087] relationship in terms of the Sherman Act or the Clayton Act.

Our reasons for so feeling are set forth at some length in our memorandum.

Mr. Dixon referred to the fact that in your Honor's findings in that case you stated that the L-O operators—or, I don't know what they were called in the Standard case, they were sublessees of Standard's own stations, were independent contractors. I checked your Honor's judgment in that case, where you defined an independent dealer in that case as one who operates a retail outlet as an independent business enterprise. I think you also added that he was an independent contractor, but I am sure your Honor had in mind the concept that we have been discussing, and that is, is this man an independent businessman, or is he an independent contractor for tort purposes or for tax purposes?

The government, of course, is well aware of the importance to its position that these men be shown to be independent. They have so asserted in their complaint in the Standard case, and they assert it in their complaint in this case. In the Standard case, however, there was no issue whatsoever as to whether or not the men who were lessees of Standard Stations were or were not independent businessmen. The government asserted that they were, and the defendant admitted that they were in its pleadings, and [fol. 1088] all of the witnesses so testified that they were.

Under those circumstances there was most certainly no issue to be judicially determined by the court in that case, and it is our feeling that there was no such determination.

Of course, in addition to that we have no way of comparing the facts in Richfield's relationships and its purpose with Standard's relationship and its purpose, because that was not brought out in the evidence or the testimony in the Standard case.

The Court: The Standard case took many long days to try, and we kept very long hours, and nothing was conceded, not even that interstate commerce was involved. They conceded the form of the contract, but beyond that my very dear friend, John Hall, did not concede anything. Of course, counsel can draw any parallel they desire, but ultimately that case was not a stipulated case in any shape or form, with the exception that the forms of the contracts involved were admitted as in existence, so whatever finding I made was based upon the evidence in the record.

As a matter of fact, the defendant in that case contested the government's position at every step, even going to the extent of where the government had witnesses, for instance, to show that inspectors would come around to stations to watch if any other product was sold, and the boys had to buy them like bootleggers. One fellow testified he hid [fol. 1089] them under his wife's bed. He had a little house back of the station that this inspector even looked into. They even produced the inspector to say that he did not go that far, although he suggested that it was not pleasant and that the company frowned on it. So they did not concede anything.

Mr. Paradise: They did concede, however, that the men who were the lessees in the stations were independent businessmen.

The Court: There was no concession of anything. I drew that conclusion from the particular facts. You will notice that the main defense was, the one that was presented in the upper court chiefly, the presence of competition on behalf of others, including yourself. That took very little time, and the object of that testimony, which included the representatives of your company, was to produce the contracts, and I think my friend Stanley and I corresponded about that afterwards, because he thought some of the lan-

guage I used relating to some of the witnesses might be misinterpreted. I said that I merely judged by the nature of the testimony, that what Standard sought to show was that they were doing what six or seven other companies had been doing for 20 years, and, furthermore, that these were competitors.

So whatever determination was made was made upon the basis of contested facts, not upon the basis of any admis- [fol. 1090] sions, because there were very few admissions of ultimate facts as found by the court.

Mr. Paradise: I agree with your Honor that it was contested on almost every issue,——

The Court: That is right.

Mr. Paradise: ——including interstate commerce, except the one issue of whether or not these men were independent, because Standard in its answer admitted that they were independent. That appears from page 91 of the transcript on appeal. Mr. Dixon, or the government, during the course of the trial brought out that they were independent, independent businessmen, these various operators and lessees of Standard Stations, regardless of the term in their contract, which I think was something over six months, rather than this 24-hour arrangement we have, and Standard offered no evidence to the contrary.

I believe that I have discussed with the court our main thoughts concerning the issues involved. Thank you, sir.

The Court: All right.

COLLOQUY

Mr. Dixon: The government will call now for the return under paragraph 18 of the subpoena served on the defendant.

Mr. DeMartini: Paragraph 18 of which subpoena, Mr. Dixon?

Mr. Dixon: The first subpoena.

[fol. 1091] Mr. DeMartini: These are, I think, the documents called for (handing documents to counsel).

Mr. Dixon: I will call for the return under paragraph 19 of the subpoena.

Mr. DeMartini: Incident to No. 19, Mr. Dixon, we have no response.

Mr. Paradise: You mean there are no——

Mr. DeMartini: There are no documents covered by that call.

Mr. Dixon: I will call for the return under paragraph 22 of the subpoena.

Mr. DeMartini: In response to paragraph No. 22, I submit several documents (handing documents to counsel).

Mr. Dixon: I will call for a return under paragraph 24 of the subpoena.

Mr. DeMartini: In response to paragraph 24, Mr. Dixon, we present you with these three cases here (indicating). Your Honor cannot see them, I believe, so I will step aside.

Mr. Dixon: Thank you very much.

Mr. Paradise: Those have been disclosed to the plaintiff in advance.

Mr. Dixon: I will call for the return under paragraph 25 of the subpoena.

Mr. DeMartini: In response to paragraph 25, we submit several documents (handing documents to counsel).

[fol. 1092] Mr. Dixon: I will call for the return under paragraph 26 of the subpoena.

Mr. DeMartini: Several documents are produced in answer to paragraph 26 (handing documents to counsel).

Mr. Dixon: We now call for the return under the supplemental subpoena served on the defendant, items 1 to——

Mr. DeMartini: In response to item 1 we have not produced the documents at this time, and I think it was understood that we would produce those in connection with the various witnesses called.

Mr. Dixon: Rather than take the time to call for each paragraph under the balance of the subpoena, which was rather long, may we call for it in toto at this time, and then if there are any paragraphs on which no return is being made, would you so specify?

Mr. DeMartini: Well, in response to that, the second subpoena is divided into three sections.

Mr. Dixon: That is right.

Mr. DeMartini: In response to the second section, we produce a number of items of correspondence called for. There are several missing, but we have numbered them so that you can readily tell which items are not produced. Those that are not produced we could not find. Here is a

copy for your use under 2, Mr. Dixon (handing documents to counsel).

Mr. Dixon: Thank you very much.

[fol. 1093] Mr. DeMartini: In response to Section 3, we produce several documents. Here again there was no material produced in response to several of the calls. If you wish me to enumerate them, I can do so.

Mr. Dixon: That will not be necessary at this time, if you will advise us as to that off the record.

The Court: Gentlemen, why can't we do this——

Mr. Dixon: That completes it, your Honor.

The Court: I thought you were going to take more time. All right.

Mr. Dixon: The government has previously submitted to the clerk, to be marked for identification, Exhibits No. 1, 1-A through G, inclusive, the same dealing with the so-called L-O type of arrangement; Government's Exhibit 2, for identification, being a form of lease used with the so-called truck station; Exhibits Nos. 3, 3-A through 3-D, inclusive, being those documents related to the 3-C arrangement in existence prior to the war, and concerning which we are submitting those only as background material; Exhibits 4, 4-A through D, inclusive, for identification, the same being the forms of agreement used with the 3-C arrangement commencing November 1945 through the present time; Exhibits marked No. 5, 5-A through 5-I, inclusive, dealing principally with those contracts in written form between the third type of outlet referred to in our [fol. 1094] opening statement and the defendant.

(The documents referred to were marked Plaintiff's Exhibits Nos. 1, 1-A through G, inclusive; 2, 3, 3-A through 3-D, inclusive; 4, 4-A through D, inclusive; 5, 5-A through 5-I, inclusive, for identification.)

Mr. Dixon: The government offers all of these exhibits in evidence.

Mr. Paradise: I would like to enter an objection to certain of them, your Honor, but I haven't examined them. In accordance with the numbers that Mr. Dixon has mentioned, we did not know they had already been presented to the clerk for identification. May I do that during the noon hour?

The Court: That is merely a matter of convenience. It allows the clerk to keep track of the documents. I will tell you this: We have gotten a good start, and before the presentation of oral evidence begins, if you desire, we can take our noon recess now, and then you can examine these documents and offer specific objections when we reconvene at 2:00 o'clock.

Mr. Paradise: Thank you, your Honor.

The Court: That is the only group you are going to offer at the present time? You are going to put a witness on after that?

Mr. Dixon: Yes.

The Court: Or do you have more documents?

[fol. 1095] Mr. Dixon: That is all of the documents.

The Court: You will remember that we will follow the same procedure we followed before. We are not going to stop to read documents. When you fall down on witnesses, or somebody wants a rest, you can have somebody read them, if you need to read anything.

Mr. Dixon: Thank you, your Honor.

The Court: I think that is the best procedure in all of these long cases that have a lot of documentary evidence.

All right, gentlemen, we will take a recess now until 2:00 o'clock.

(Whereupon at 11:55 o'clock a. m., a recess was taken until 2:00 o'clock p.m. of the same day.)

[fol. 1096] Tuesday, May 8, 1951, 2:00 P.M.

The Court: All right, gentlemen.

Mr. Dixon: I believe when we adjourned——

The Court: Yes, counsel was going to look at some of the exhibits that you were offering.

Mr. Paradise: I have examined them, your Honor, and would like to make an objection to four of the forms that are offered. The particular exhibits to which the objection is directed are Exhibit-5-A, 5-C, 5-E, and 5-F.

The Court: May I have them?

Mr. Paradise: Exhibit-5A, 5-C, 5-E, 5-F. Your Honor, those were all agreements or instruments which are called painting agreements. The objection is not on the basis of relevancy, because I admit that these are all relevant to

the original background, original transactions with the so-called 337 dealers.

The objection is a formal one which is based upon materiality. The painting agreements contain nothing concerning the sale of the products which is the basis of the charge here and the issue in this lawsuit. I appreciate that at this stage of the case your Honor could not possibly pass on the question of materiality, and therefore the objection is entered primarily for the record and to state our position.

The Court: I will overrule the objection. I will reserve the right to strike as to any of these as to which objection [fol. 1097] is made. I may say that in itself, of course, an agreement whereby somebody agrees to paint a sign, to paint a station, in case of certain things, including removal of other things, in itself may not have any significance, but it may, along with other facts indicate—well, not "indicate"—may lend itself to the inference that it was one of the methods resorted to to secure exclusive representation that only Richfield products were being sold at the place. So it may have some bearing upon the issue.

The objection is overruled. However, you may move to strike at the conclusion of the Government case if, in the light of such facts as may appear, this may show up to be something sporadic and not a part of the pattern or the plan in order to exercise control over the stations.

Mr. Dixon: I take it, your Honor, the documents offered are admitted?

The Court: They are received now. Where do we start, with 5 what?

Mr. Dixon: No. 1.

The Court: The others are not objected to?

Mr. Dixon: Oh, yes, that is right.

The Court: Then the documents have been offered, No. 1 to 1-G, No. 2, 3 to 3-D, 4 to 4-D, 5 to 5-I, will be received and given the identical numbers.

(The documents referred to were marked Plaintiff's Exhibits 1 to 1-G, No. 2, 3 to 3-D, 4 to 4-D, 5 through 5-I and received in evidence.)

[fol. 1098] Mr. Dixon: The Government will call Mr. King under Rule 43(b).

W. G. KING, JR., called as a witness by the plaintiff under Rule 43(b), being first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name, please?
The Witness: W. G. King, Jr.

Direct Examination

By Mr. Dixon:

The Court: All right, go ahead.

By Mr. Dixon:

Q. Will you state your full name, please?
A. W. G. King, Jr.
Q. Where do you reside, Mr. King?
A. I reside in South Pasadena.
Q. What position or office do you have with the Richfield Oil Corporation?
A. Vice-president and general salesmanager.
Q. How long have you been with the Richfield Oil Corporation?
A. Since 1937.
Q. Is that the time at which the Richfield Oil Corporation commenced to do business after its reorganization?
A. Yes, sir.
Q. That was on or about the early part of March 1937?
A. Yes, sir.
[fol. 1099] Q. And you have been with that company ever since that date?
A. Yes, sir.
Q. What position did you hold with the company in 1937, if any?
A. Manager of their southern division.
Q. You held that position until around about 1945?
A. Until August of 1946.
Q. And generally, as manager of the southern division, you were in charge of the marketing and other activities of Richfield in your division?

A. Yes, sir.

Q. During that period of time?

A. Yes, sir.

Q. What position did you hold or have you held in addition to that of southern division manager for Richfield?

A. Prior to my present position I was assistant general salesmanager.

Q. In the marketing department?

A. Yes, sir.

Q. How long did you hold that position?

A. August 1946 until October of 1949.

Q. And at that time you became vice-president and general salesmanager of Richfield?

A. Yes, sir.

Q. And have held that office ever since that date?

[fol. 1100] A. Yes, sir.

Q. While you were assistant general salesmanager of the marketing division who was your superior, Mr. King?

A. W. T. Dinkins.

Q. And he held the position that you now hold and have held since 1949?

A. Yes, sir.

Q. And Mr. Dinkins is deceased, is he?

A. Yes, sir.

[fol. 1101] Q. Was Mr. Dinkins vice-president and general sales manager of Richfield from the time of its organization in 1937 until the date of his death in 1949?

A. Yes, sir.

Q. Now, as vice-president, in charge of marketing and general sales manager of the company, are you familiar with the manner of distribution of the petroleum products of your company?

A. Yes, sir.

Q. And the marketing methods and policies of your company?

A. I believe so.

Mr. Paradise: Mr. King, forgive me, but we can't hear you over here. Can you speak up, please?

The Court: Speak loud enough so that counsel may hear you, Mr. King. Imagine yourself addressing a pep talk to your salesmen.

The Witness: All right, your Honor.
The Court: You have to sell yourself.
The Witness: That might be pretty loud.
The Court: That is all right. We all talk that way.

By Mr. Dixon:

Q. How many divisions of the marketing division does your company have, Mr. King?
[fol. 1102] A. We have three marketing divisions.
Q. Will you state what those are?
A. There is the Northern Division, the Central Division, and the Southern Division.
Q. What territories do each of these divisions cover?
A. The Northern Division comprises the states of Washington and Oregon, and a part of the state of Idaho. The Central Division comprises what we call Northern California, or that area north of the Tehachapi up to the Oregon line, and the greater part of Nevada. And the Southern Division comprises the balance of the state of California, and the balance of the state of Nevada not covered by the Central Division, and including the entire state of Arizona.
Q. Now, your company has how many refineries, Mr. King?
A. We operate one refinery.
Q. Where is that located?
A. Watson, California.
Q. In the state of California?
A. Yes, sir.
Q. And all of the gasoline which is distributed by your company through the six states that you have described is refined at that location, is it?
A. Yes, sir.
Q. And it is shipped from the refinery to the various [fol. 1103] bulk plants of the company located in the six-state area described, is it?
A. Via our deep water terminals and thence to these plants, yes, sir.
Q. About how many bulk plants does Richfield have, can you tell the court?
A. In the neighborhood of 220.

Q. Are those located in various parts of the six states that Richfield does business in?

A. Yes, sir.

Q. The gasoline refined at the Watson refinery is then shipped from the refinery either by tanker or truck to the various bulk plants which are operated by the company in the six-state area; is that correct.

A. Well, I——

Q. Generally speaking?

A. I mentioned that the gasoline is shipped from the refinery to deep-water terminals and thence from those terminals to these bulk plants. Some shipments are made direct from the refinery to bulk plants.

Q. Such gasoline as is distributed for resale purposes within the areas mentioned, that is, within the six-state area, is delivered from your approximately 220 bulk plants to the retail outlets, where it is resold; is that correct?

A. Yes, sir.

[fol. 1104] Q. How are the quantities of gasoline that are shipped to your bulk plants from your refineries determined, generally speaking? In other words, when do you know to ship to a particular bulk plant from your refinery?

A. We have an order and distribution department, and they replenish supplies on a regular schedule or as ordered.

Q. In other words, it is a part of the marketing procedure, is it not, to see that there is a constant flow of gasoline from your refinery to the various bulk plant outlets in the six-state area?

A. Yes, sir.

Q. And the quantities that are shipped to those outlets are generally determined either on specific order from the bulk plant operators or in anticipated needs of the particular plant operator in that area; is that correct?

A. Yes, sir.

Q. Now, does your company manufacture any automotive accessories? And by that term I mean any automobile tires or tubes, or batteries?

A. No, sir.

Q. Does it manufacture any other type of automotive accessories, such as spark plugs, windshield wipers, and comparable items?

A. No, sir.

Q. Has it ever done so since you have been with the [fol. 1105] company?

A. Not to my knowledge.

Q. But Richfield does handle a considerable—by "handle" I mean, do you purchase from various manufacturers of that type of product such products?

A. Yes, sir.

Q. That type of marketing, that is, the marketing of that type of product is handled by this division that is under you, is it not?

A. A department under my supervision.

Q. So that you are familiar with the general manner and method of merchandising automotive accessories by the company; is that correct?

A. Yes, sir.

Q. Now, it is a fact, is it not, that Richfield does in any given year purchase for distribution or resale purposes a large quantity of automotive accessories of the type that I have mentioned?

A. I don't know—I can't—I don't know your interpretation of "large quantity." I would answer that——

Q. I would say between three and four million dollars per year?

A. That would approximately cover the wholesale value of such items that we sell to distributors.

Q. That is, that would represent the cost to Richfield [fol. 1106] of the products which are in turn sold to your distributors; is that correct?

The Court: Are you talking about products in general—petroleum products and accessories?

Mr. Dixon: No, your Honor; accessories.

The Court: Or just petroleum products?

Mr. Dixon: I am talking now just about automotive accessories.

Mr. Paradise: Mr. Dixon, we have a stipulation as to the amounts involved?

Mr. Dixon: Yes, I am going to put that in shortly, but now I just wanted to get the method and manner of distribution.

By Mr. Dixon:

Q. Would you answer the question, please?
The Court: Read the question.

(The question was read.)

The Witness: I believe I answered that, Mr. Dixon, that that would approximately represent the value of that type of products that Richfield sells to its distributors.

By Mr. Dixon:

Q. Now, your distributors of these automotive accessories are also bulk plant operators, are they not, Mr. King?

A. In a few instances they also act in the capacity of what we call a commission agent.

[fol. 1107] Q. Well, about how many of these—how many distributors of automotive accessory products do you have?

A. I don't know exactly, but I would say we have in the neighborhood of fifty.

Q. That is, fifty distributors to whom you sell these three or four million dollars of automotive accessories you mentioned as being purchased during a given year from the supplier or manufacturer?

A. Yes, sir.

Q. And these distributors are located at the various points in the six-state area in which Richfield distributes its petroleum products, are they?

A. Yes, sir.

Q. Will you state to the court just how, or the method or manner in which Richfield orders these products, these automotive accessories, from the manufacturers or suppliers thereof? Do you understand my question?

A. I would like to have you repeat it, please.

Q. Well, when Richfield sends in an order—I will withdraw my question. When Richfield sends in an order to a TBA manufacturer or supplier, it generally has orders from its TBA distributors, does it not, for such products?

A. Yes, sir.

Q. And sometimes it may anticipate such orders from the distributor, and order the accessories from the sup-

[fol. 1108] plier for direct shipment, does it not?

A. That is correct.

Q. And the manufacturers or suppliers of these various items are located throughout the various states of the country are they not?

A. A few of them are, yes.

Q. So that your orders for these products are sent to those manufacturers that are located in the various states of the United States and then shipped on your order to the distributor; is that correct?

A. Yes, sir.

Q. Do you know what happens to those accessories after they are shipped to the distributor?

A. Well, the distributor, in turn, sells those products or items to the service station trade within his area or vicinity.

[fol. 1109] Q. And by "his area or vicinity" you mean the area given to him by your company within which to dispose of these products, these automotive accessories?

A. Within that area, yes, sir.

Q. And when you designate or appoint such a distributor is he given a list of the outlets with which Richfield has some kind of an arrangement for the sale of its petroleum products?

A. After he has been established as a distributor we notify him of the accounts, the various accounts in that area that are handling Richfield products.

Q. The distributor may also order direct from some of the suppliers, may he not, for resale purposes, outlets we have been talking about, the retail outlets?

A. Yes, he may order TB items from a number of suppliers or manufacturers.

Q. But he may not order any competitive items, that is, by competitive I mean items which are competitive with those with which Richfield has some arrangement with a supplier of such products, may he?

A. No, that is not correct.

Q. Well, what is the fact with reference to that, Mr. King?

A. These distributors can and do order and sell and distribute TB items that are in addition to an approved list of items, that is, approved by Richfield, and in many

[fol. 1110] instances they may and do handle items that are in competition with those items.

Q. Does Richfield get an underwriting commission on all such sales, if any, made by such distributors?

A. We earn a profit only on the sale of those items that are in Richfield's approved list.

Q. But you say he may sell automotive accessories or buy them from suppliers other than those that you designate, where such other supplier makes products competitive to those with whom you have such arrangements?

A. Yes, sir.

Q. Is that a fact?

A. Yes, sir.

Q. What is the fact with reference to tires which Richfield handles, that is, what company do you have an arrangement with for the supplying of automotive tires and tubes to your distributors, if any?

A. We have an arrangement with the Goodyear Tire & Rubber Co.

Q. And it works in the manner that you have described, that is, Richfield orders the tires from the Goodyear Tire & Rubber Co., and Goodyear in turn makes delivery of your orders to the designated distributors on your order, is that correct?

A. The TBA distributor——

Mr. Dixon: Could you answer that just yes or no, please?

[fol. 1111] The Court: He may explain his answer.

Mr. Dixon: Yes.

The Court: If you can answer yes or no, you should, and then explain your answer.

The Witness: Thank you, your Honor. I would like to explain my answer.

The Court: All right.

Mr. Dixon: I would prefer, please—I think if the question can be read, it is capable of a yes or no answer.

The Witness: All right.

Mr. Dixon: I have no objection to any explanation, but I would like to get the answer first.

The Court: All right. Read the question.

Mr. Dixon: Would you read the question, Mr. Reporter, please?

(Question read by the reporter.)

Mr. Dixon: Can you answer that yes or no?
The Court: Just a minute. Give him a chance.
Mr. Dixon: Yes. I am sorry, your Honor.
The Court: You are giving him the rush act.

A. Yes.

The Court: All right. Now you may explain it.
The Witness: Well, I think by answering "yes," unless you want some explanation?
The Court: No, I do not want any explanation. I merely [fol. 1112] want to tell you we do not run a court the way you see it in a motion picture.
The Witness: Thank you, sir.
The Court: Nobody browbeats you. If you want to give an explanation of an answer you have a right to do that.
The Witness: Thank you, sir.
The Court: I do not know whether you have ever been in court before. I presume you have.
The Witness: A very few times, sir.
The Court: I hope your opinion of us won't change after this.
The Witness: I hope not.
The Court: All right.

By Mr. Dixon:

Q. Would any of your designated distributors be authorized by you to order automotive tires and tubes from sources other than Goodyear, in the event you could secure such tires and tubes as were required by the distributor from Goodyear?
A. Was your question there would they be authorized to?
Q. Yes.
A. We would have——
Q. Can you answer that yes or no. I don't want to be browbeating the witness, your Honor.
The Court: No. I think the use of the word "authorized" [fol. 1113] calls more for a conclusion than of an answer. I can't insist on him answering that yes or no.

Mr. Dixon: All right, your Honor.

A. We would have no control over the TBA distributors, over any purchases he might make from any supplier or manufacturer that he saw fit to make them from.

The Court: Over and above what you supplied.

The Witness: Over and above what we supply.

By Mr. Dixon:

Q. Do you know in your experience of any instances in which any of your distributors have in fact purchased any tires or tubes from sources other than Goodyear while you have had a contract with Goodyear?

A. Yes, sir.

Q. What instances can you give the court of such a situation?

A. Do you want me to—I cannot designate, I would not want to designate by name right now, but I know that that practice—I know that that has occurred numerous times.

The Court: With your knowledge, or what?

The Witness: Yes, sir; with our complete knowledge.

The Court: Were those instances in which you could not supply the particular item or where the distributor, for reasons of his own, whether he had a special customer or not, sought the different items?

The Witness: In both instances, your Honor. In other [fol. 1114] words, the distributor has seen fit to augment his supply or increase his supply of materials and, at the same time, whether it be in a period of short supply or not.

The Court: I see. All right.

By Mr. Dixon:

Q. Do you know of any particular instances of the type that you have mentioned, to your own knowledge, Mr. King?

A. I would be hard pressed to recall the distributors' names, but it has been my experience that that condition has prevailed many times, that you speak of or that I speak of.

Q. But you cannot give us at this time any names of

any of the distributors with which that has actually occurred?

A. Not without guessing at the moment, sir.

Q. Well, we don't want you to guess.

A. I don't want to guess, but I know that that has been the case.

Q. Is there any way in which your memory could be refreshed concerning such instances?

A. Yes, possibly by reviewing the list of our distributors.

Q. Well, I am going to ask you if you will do that when we are through today and tell us at some other time what the names of those distributors are. Would you do that?

A. All right, sir.

Q. Are these arrangements that you make with your [fol. 1115] TBA distributors in writing? Do you have anything in writing with them?

A. No, we do not have anything in writing with them.

Q. The arrangement is entirely oral, is that correct?

A. That is correct.

The Court: On what basis? Do they handle them like a factor, that is, as your property? Do they sell for you or just on the basis of profit, the title remaining with you until sold, or what?

The Witness: No, sir. It is on a buy and sell arrangement. In other words, it is their inventory.

The Court: You sell them direct?

The Witness: We sell them direct.

The Court: You sell them direct and then they make whatever profit they charge over and above the cost of the goods?

The Witness: That is right, sir.

Mr. Paradise: There is one exception to that with respect to "car and home" merchandise, is there not, Mr. King? So that the judge gets the complete story. I don't want to interrupt your examination.

The Court: No, that is all right. I mean I am trying to get a picture, gentlemen. You know my custom. I do not want to break the continuity of your examination.

Mr. Dixon: May I have that question, Judge? I am sorry.

[fol. 1116] The Court: Yes. Counsel merely added a statement. Go ahead and read it.

(Statement of Mr. Paradise read by the reporter.)

Mr. Paradise: Perhaps my interruption was untimely, your Honor. There is a certain merchandise, as Mr. Dixon knows, because it is covered in our stipulation, from which Richfield gets a commission rather than being a purchase and sale, and that is that car and home merchandise.

The Witness: Thank you for refreshing my memory, but I had overlooked that.

The Court: That is correct?

The Witness: That is correct, sir.

By Mr. Dixon:

Q. And Richfield also sells some TBA products directly to retail outlets, does it not?

A. No.

Q. That is, there are no sales by Richfield of any TBA products direct to retail outlets?

A. No, sir.

Q. You are certain of that?

A. I am positive of that.

Q. Now coming back to petroleum products, Richfield, of course, refines motor oils and greases, does it not, for distribution and sale to retail outlets?

A. Yes, sir.

Q. In the six-state area mentioned?

[fol. 1117] A. Yes, sir.

Q. And are those lubricating oils and greases refined also at the Watson Refinery in California?

A. Yes, sir.

Q. Are they shipped from that refinery to bulk plant outlets in substantially the same manner, that is, on orders and in anticipation of orders from the bulk plant operators in such areas?

A. Yes, sir; in the same manner as we have described heretofore for gasoline.

Q. And Richfield then delivers the gasoline and the motor oils and greases that we are talking about from the bulk plants in the six-state area direct to the retail outlets

for resale purposes in the six-state area, is that correct?

A. Yes, sir.

Q. Do you know who holds the legal title to the petroleum products, that is, the gasoline, the greases and oils that we have mentioned, until they are delivered to the retail outlets in the various states of the six-state area?

A. Richfield holds the title.

Q. So that from the time the gasoline or greases or oils leave the refinery until its reaches the particular retail outlet in any one of the six states that we are referring to in which Richfield does business, Richfield retains the control over that product during that entire period of time, is that correct?

[fol. 1118] A. Until it is placed in the customers' tanks.

Q. Now, Mr. King, are you familiar with the various forms of written agreement which Richfield uses in marketing its petroleum products for resale purposes to retail outlets?

A. I believe so.

Q. Do you know what types of written arrangement, if any, Richfield was using in merchandising and disposing of its petroleum products which were delivered to retail outlets for resale purposes in 1937? It is a hard question and I am going to——

A. You are going back a good many years. You are speaking following the reorganization of the company now?

Q. That is right. Nothing goes prior to that time.

A. I believe that we had in use and were using at that time a sales contract covering sale of petroleum products. I limit that to gasoline and lubricating oils and grease. And that form was known as the No. 337.

[fol. 1119] Q. What do you understand the meaning of the term "company-operated station" to be in the industry?

Mr. Paradise: I object as being incompetent, irrelevent and immaterial.

The Court: What was the question?

(The question was read.)

The Court: Overruled.

The Witness: Overruled?

The Court: Yes.

The Witness: I didn't get your ruling.

The Court: You haven't got educated yet. Please go ahead.

The Witness: I understand, Judge, but I didn't hear your word.

The Court: Don't get educated too fast. Most of them get educated in the first day. "Overruled" means that you must answer the question.

The Witness: All right, sir.

Mr. Dixon: Do you want the question read?

The Witness: "Company-operated station" I would interpret to include those stations that are operated by individuals in the employ of the company owning the stations.

By Mr. Dixon:

Q. With your knowledge of the industry are those stations, or retail outlets, rather, which are operated, for example, by Standard Stations, Inc. within that classifica-
[fol. 1120] tion?

A. Yes, sir, they would fall in that classification.

Q. Now, does Richfield operate, or has it ever operated while you have been connected with it, any company-operated stations?

A. We have operated a few stations that would fall within that interpretation.

Q. Do you, that is, does your company operate any such station or stations at the present time?

A. No, sir.

Q. When did it cease operating such type of station?

A. Well, the last that I recall was possibly seven or eight years ago.

Mr. Paradise: Do I understand, Mr. Dixon, by your use of the phrase "such station" you are referring to a station of the nature as expressed by the term "company-operated station"?

Mr. Dixon: Yes.

Mr. Paradise: I see.

The Court: We are talking about the meaning of "company-operated station," as he interpreted that term.

Mr. Paradise: I see.

The Court: Isn't that what you are talking about?
The Witness: Yes, sir.
The Court: All right.

[fol. 1121] By Mr. Dixon:

Q. That would be about 1942?
A. '42 or '3, somewhere in that time.
Q. You say prior to that time, that is, prior to 1942, about 1942, and from the period of the commencement of the operations of Richfield, it operated about how many company-operated stations?
A. Oh, I don't suppose there were ever more than 30 or 40 at any one time in operation on that basis.
Q. Do you know the reason why the company ceased to operate any such stations?
A. Yes.
Q. Will you state such reasons to the court?
A. There was an operating situation developed or brought by the war, which, under the circumstances of the war, involving difficulty of management, and supervision, labor, and so forth, quickly compelled us to stop.
Q. So that since that time your company has not used such outlets, that is, company-operated stations as outlets for the sale of its petroleum products to the consumer within the area in which you operate; is that correct?
A. That is correct.
Q. Now, there are various forms of written arrangements which you do have with the operators of the retail outlets to which your company delivers petroleum products for retail purposes, are there not?
[fol. 1122] A. We have various forms that we use with what we call operators and with independent dealers.
Q. Now, what type of arrangement, if you can describe it to the court, do you have with the operator of a retail outlet where you sell or deliver your petroleum products for resale purposes to the consumer?

Mr. Paradise: I object on the ground of ambiguity,——
Mr. Dixon: All right.
Mr. Paradise: ——if the court please, and perhaps not the best evidence.
I might state to the court that we have with some care

worked out with the government a stipulation of the use of these various written forms. I would think that in the interests of expediency perhaps the stipulation should be before the court, unless counsel has some other purpose for his examination other than impeachment of the stipulation.

Mr. Dixon: Your Honor, I reserve the right to conduct my examination of this witness in my own manner, assuming the questions are proper.

The Court: Well, the last question was withdrawn.

By Mr. Dixon:

Q. I will hand you what is marked Government's Exhibit 1, and ask you what that is.

Mr. Dixon: That is rather a hard question to ask, because it speaks for itself, your Honor.

The Witness: This is our Form No. 542.

[fol. 1123] Mr. Dixon: This is a copy (handing document to the court).

The Witness: It is entitled "Service Station Lease," which Richfield uses in connection with the installation of an operator in what we call our Leased Out service stations.

By Mr. Dixon:

Q. I notice you use the word "uses." Does Richfield still use that form, Mr. King?

A. Yes, this form, possibly, with some modifications and changes is still in use.

Q. Well, those modifications and changes we may be interested in. Will you look at Exhibit 1 and state to the court how the rental to be inserted therein would be arrived at? That is, would it be a stipulated amounted?

A. Our rentals—our objective for the rental to be charged at our Leased Out service stations is established at one cent per gallon of gasoline sold from that location. The leases have called—sometimes have called for one cent a gallon, with a very moderate minimum rent, and at other times, why, the minimum rent has been established at a figure consistent with the gallonage that the station is doing times one cent per gallon.

There may be in some instance an additional rent charged where there is some unusual or extra facility at the location, such as a parking lot, or some building or facility that can be used to some advantageous purpose. [fol. 1124] But our objective is to collect a rental of one cent per gallon on the gasoline sold.

Q. Now, on this type of property Richfield may also have a lease with a third party, may they not, which provides that Richfield shall pay that party, the lessor to Richfield, a stipulated amount of rent per month?

A. Yes, sir.

Q. Is that the amount that is usually inserted in the provision of Exhibit 1 as the amount which the lessee thereunder shall pay to Richfield as rent for the property leased or described in the lease, Exhibit 1?

A. No. The rental that our operator pays has no relation whatsoever to the rent that Richfield pays to its lessor, and the rent that we pay is in the majority of cases and over all in excess of the rent that we receive.

Q. That is, by the rent you receive, you mean the amount provided here as the amount which the lessee shall pay, in addition to that which is measured by the amount of gasoline which is sold at that outlet?

Mr. Paradise: I object to that question on the ground that it is argumentative and assumes facts contrary to the evidence.

Mr. Dixon: I don't think so. This is cross examination. Will you read the question?

Mr. Paradise: Counsel states rent as being included in [fol. 1125] the price of gasoline, and I don't understand that.

Mr. Dixon: There are two provisions here, your Honor.

The Court: I know. Will you read the question again, please?

The Witness: A little loud, please.

(The question was read.)

The Witness: I think that, Mr. Dixon,——

By Mr. Dixon:

Q. Do you understand the question?

A. Yes, I understand your question. I think that Mr. Dixon has not understood my answer, your Honor.

The Court: All right.

The Witness: Our objective in what we insert in this operator's lease, our objective is a total rental of one cent per gallon, except where there is some unusual or extra facility, such as a parking lot or some other building.

The Court: Let's get down to this split rental here. There is a provision here——

Mr. Dixon: A further provision. This provision here (indicating).

The Witness: Yes.

The Court: Which has a blank where you put in another figure.

The Witness: Yes.

The Court: And then below that you also talk about additional rent.

[fol. 1126] The Witness: All right. I can explain that, your Honor.

The Court: Now, how do you do that? By what criterion do you split the two?

The Witness: All right, your Honor. I can explain that. Let's assume that this station sells 10,000 gallons of gasoline per month. At the rate of one cent per gallon that would be $100. So we will establish in the forepart of this lease here the rental at $100, and then down here in the latter part it will call for a rental of one cent per gallon on all in excess of 10,000 gallons. It is all at the rate of one cent per gallon, and the flat rental is not in addition to the collection of one cent per gallon.

The Court: In other words, the flat rent would be the actual rental if you had a certain earning capacity?

The Witness: It is a minimum rental, your Honor.

The Court: Then you add one cent, computed on the basis of gallonage beyond a certain amount?

The Witness: Yes. In other words, your Honor, if the

figure here inserted was $100, and a station operator sold 11,000 gallons, the rent would be $110.

The Court: All right. Go ahead.

By Mr. Dixon:

Q. Will you examine Government's Exhibit 1 and state to the court, if you can, what cancellation provisions are [fol. 1127] contained therein with reference to the right of either Richfield or the lessee to cancel that lease?

A. This particular document, which was in use in 1937, in July, gave the privilege of cancellation to either party, or to both parties, on 30 days notice.

The Court: Where is that clause?

The Witness: It is under "term" there, your Honor, the second paragraph.

By Mr. Dixon:

Q. It is a fact, is it not, Mr. King, that in this type of lease the term was generally a period of 12 months, subject to that cancellation provision that you have mentioned?

A. I do not know the answer to that question.

Mr. Dixon: All right. That is a good answer.

The Court: I notice that clause, Mr. King, and the clause following the gallonage contemplates a rental for a fixed period, because it gives a beginning and the ending of a term. Is that true?

The Witness: Are you referring to this, your Honor (indicating)?

The Court: I have the same thing here you have. I mean the clause opposite the "term." Here it speaks of the beginning, and again in computing the gallonage it uses a terminology that contemplates a fixed period, beginning at, and ending at. You see what I mean?

The Witness: Yes, sir. I do, sir.

[fol. 1128] The Court: So these leases were for a definite term, but you do not know what that definite term was?

The Witness: That is right. Mr. Dixon asked me if it were not true that the term was 12 months, and I said that I don't know. It could have been a period of a month, or three months, or some such period.

The Court: Well, you wouldn't be able to change possession of property of that type every 30 days.

The Witness: No, but I believe it further provides it will run along, and it will continue thereafter until cancelled by either party upon 30 days notice.

The Court: All he wanted was the minimum, if the minimum was not a year.

Mr. Dixon: That is right.

The Witness: That I do not remember.

The Court: You do not know. All right.

The Witness: You see, your Honor, that was in 1937. If you get to a little more recent time, I might remember.

The Court: All right.

By Mr. Dixon:

Q. Does this document, Exhibit 1, represent the entire arrangement between the Richfield Company and the lessee therein?

A. Yes, sir. There is no other document, nor any other arrangement, if you will call it arrangement. However, the operator, when he is installed in one of our Leased Out [fol. 1129] stations is directed as to how the station shall be operated so as to conform to our methods and procedures.

Q. I will again hand you Exhibit 1 and ask you to examine the same, and state to the court whether you find anything contained in that document with reference to the sale or delivery by Richfield to the lessee of that station of any petroleum products?

A. Will you read the question?

(The question was read.)

A. No, there is nothing contained in this lease that has anything with reference to the sale of petroleum products.

The Court: I wouldn't answer that question that way if I were asked that question. I would say that this gallonage business in the lease clearly contemplates the delivery by you or by somebody, not by you, of gasoline, on which you receive so much per gallon.

The Witness: Maybe I misinterpreted the question, your

Honor. I had reference to the fact that there is no agreement of purchase and sale in this document.

The Court: That is true. All right.

Mr. Dixon: I think the witness has answered my question, Judge.

The Court: All right. You want me to do as I do with juries, you want me to instruct myself to disregard my [fol. 1130] question, is that it?

Mr. Dixon: No, I don't think that is necessary.

By Mr. Dixon:

Q. It is a fact, is it not, Mr. King, that your company does deliver and does sell to the lessees of Form 542, Government's Exhibit 1, petroleum products?

Mr. Paradise: I must object, your Honor, on the ground that I originally mentioned, this time for lack of foundation, unless counsel identifies the time to which he refers. The stipulation which we have entered into shows that this form was used for a period around 1937. Counsel's question relates to the present. He speaks of the present.

The Court: I think if you are going to a different topic you should ask for the period, so that we may tell whether you are talking about a co-existent contract—what is the term I want? "Co-existent" is a good word—so as to see whether the contract was in force at the same time when this was in force. Isn't that what you have in mind?

Mr. Paradise: Exactly, your Honor.

Mr. Dixon: Your Honor, if I may explain my question, this is the first form used with this type of arrangement. The witness has testified that there was substantially no change in the form up to the present time. I thought I would save time by covering the whole arrangement with this document, and that is the purpose of my question.

[fol. 1131] Mr. Paradise: That wasn't the witness' testimony. He testified there have been changes, and he hasn't been permitted to explain what they are.

Mr. Dixon: Will you read the question?

The Court: Read it, please.

(The question referred to was read as follows:

"Q. It is a fact, is it not, Mr. King, that your company does deliver and does sell to the lessees of Form 542, Government's Exhibit 1, petroleum products?")

Mr. Dixon: I could change the tense there to "did sell."

The Court: Yes. "Does" would imply at the present time.

Mr. Dixon: Yes, at the present time.

Mr. Paradise: And I also think, if the court please, not to be specious, that counsel should lay the foundation as to the period during which this form was used.

The Court: Maybe the answer is "No." If the answer is "Yes," then we will have him fix the time. Go ahead. You may answer it.

The Witness: The answer is "Yes."

The Court: All right.

[fol. 1132] Q. And that it continued to sell such petroleum products to all of the lessees under Government Exhibit 1 as long as that arrangement, Government Exhibit 1, was in effect between the defendant and the lessee?

A. Yes.

Q. And that was a matter of oral arrangement, was it, Mr. King, between the lessee and Richfield at the time the lessee executed Government Exhibit 1 with Richfield?

Mr. Paradise: Object on the ground of ambiguity, if the court please. That calls for the conclusion of the witness.

The Court: Overruled.

Mr. Dixon: I think this witness has testified, your Honor——

The Court: That is all right. I don't want you to argue when I am ruling in your favor, and I don't want you to argue when I rule against you.

The Witness: Repeat that question, please.

The Court: Read the question.

(Question read by the reporter.)

A. No, sir.

The Court: All right.

By Mr. Dixon:

Q. When under Exhibit 1 did your company arrange to sell petroleum products, if it did, to the lessee of Exhibit 1?

[fol. 1133] A. When the lessee was selected as the operator of an L-O station, he is told how we expect that station to be operated, how we expect the station to be run, and he is told that he is to handle our products. There is no oral arrangement. It is a matter of our direction.

The Court: All right. Well, it is technical.

Mr. Paradise: If the court please, I think the witness' answer indicates that he thought the question related to the present time.

The Court: I think he put his own construction on the arrangement. He meant direct. It is a condition of your dealing with him?

The Witness: Yes.

The Court: In other words, what you mean to tell us is this: That when you decide to lease out the station you, at the same time, tell the man he is expected to handle your products. Otherwise you would not go to the trouble of turning valuable property over to him.

The Witness: That is correct, your Honor. It is not a case of any agreement or anything else.

The Court: You just tell him.

The Witness: We tell him.

The Court: Thank you for your forthrightness.

Mr. Dixon: You do much better than the lawyer sometimes, Judge.

[fol. 1134] The Court: He is a businessman and very forthright when it comes to being a witness. That is my experience with them.

The Witness: We are not lawyers, your Honor.

The Court: Thank you for saying that. They are more forthright than the lawyers, I often think.

By Mr. Dixon:

Q. So at the time the lessee enters into Government Exhibit 1 there is attached to that lease, is there not, Mr. King, as a condition of the lease that he purchase his entire requirements of petroleum products from Richfield?

A. That is a difficult question to answer, if I understand it. I repeat again that there is no agreement, simply a case that if he wants this lease and wants to operate this station, that he will run the station as we direct.

The Court: All right.

By Mr. Dixon:

Q. I will hand you Government Exhibit 1 and ask you to examine that and state to the court what, if anything, is contained therein with reference to cancellation by Richfield of the lease, Government Exhibit 1-B?

The Witness: Will you repeat the question, please?

The Court: I am going to call your attention to a filled-out exhibit. Had you propounded a question on it?

The Witness: He had asked me a question. I was asking it be repeated, sir.

The Court: Oh, all right.

[fol. 1135] (Question read by the reporter.)

A. This is our form 542 which was in vogue or in use in 1941. And in answer to your question, sir, the cancellation privilege has been stipulated at mutually the 24-hour arrangement.

The Court: Where is that contained?

The Witness: In the paragraph after "term," your Honor.

The Court: All right.

By Mr. Dixon:

Q. What was the reason, if you know, Mr. King, for changing of that cancellation provision as against the one contained previously in Government Exhibit 1?

A. I can't answer that question because I was not a party nor was not responsible for the change in those directions or arrangements.

Q. But it is a fact, is it not, that that 24-hour cancellation provision that you have referred to as being in Government's Exhibit 1-B, adopted in February of 1941, exists in all of the documents used by Richfield and the L-O type of station since February 1941? Isn't that true?

A. I can't say that that condition—yes. I retract that, sir. The answer is yes.

Q. I will hand you Government's Exhibit No. 2 and ask you to state to the court, if you can, what that document is?

A. This is form 1095 which was in use in December of [fol. 1136] 1945 and was used in connection with the operators of our stations classified as truck service stations.

The Court: Truck what?

The Witness: Truck service stations.

By Mr. Dixon:

Q. I will ask you to examine that document and state to the court whether it represents the entire business arrangement or arrangement of any kind that you might have between the company and the lessee who might be named therein?

A. Yes, this represents the entire arrangement we have with the operator of a truck service station.

Q. I will ask you to examine that exhibit again and state, if you can, whether you find any provision contained in said document with reference to delivery to any lessee who might be named therein of any amount of petroleum products of any kind by Richfield?

A. No, this does not make any reference to delivery of petroleum products.

Q. State, if you can and know, whether Richfield did in fact sell or deliver any petroleum products to any of the lessees who might be parties to Government's Exhibit 2, your form No. 1095?

A. Yes, we have delivered—sold and delivered petroleum products to holders of this lease.

Q. Was that a matter of another arrangement entered [fol. 1137] into between Richfield and the lessee who might be named as the lessee of any such a lease?

A. There is no arrangement between Richfield and the lessee of a truck station. The same condition prevails here as I have heretofore explained to you prevails with the operator of what we call an L-O station, namely, when arrangements are made for an operator to lease a truck station he is directed and told by us how he shall operate that station and the products that he shall purchase.

Q. It is a fact, then, isn't it, Mr. King, that any lessee

or any lease which Richfield might enter into under Government's Exhibit 2 would be conditioned upon the sale to the lessee thereof or therein of petroleum products handled only by Richfield and delivered to the lessee by Richfield?

A. I think I have answered that question, Mr. Dixon.

Q. Well, that ought to be easy, then. Is it yes or no, if you can?

A. When we arrange for——

Q. Can you answer it yes or no, first, please?

The Witness: Will you read the question?

(Question read by the reporter.)

A. If I understand your question, it is not a fact. In other words, it is not a condition. It is a direction on our part to the holder of this lease.

[fol. 1138] Q. And if that lessee did sell or accept delivery from any competitive supplier with Richfield of any petroleum products at the outlet leased to him under form 2, what, if anything, would Richfield do?

A. It would be——

Mr. Paradise: Your Honor, may I have that question? Forgive me. Had you finished?

Mr. Dixon: Yes.

Mr. Paradise: I could not hear the question. May I have it read, please?

The Court: Read it, please.

Mr. Dixon: I will withdraw the question and save time, and ask this one:

Q. I will again ask you to examine Government's Exhibit 2, Mr. King, and state, if you will, what cancellation provisions are contained therein with reference to cancellation of that lease by either Richfield or the lessee named therein or who might be named therein.

A. This form provides that Richfield, the lessor, may cancel on five days notice.

Q. Do you find any comparable provision giving the lessee who might be named therein the same right to cancel on five days notice to Richfield?

Mr. Paradise: Objected to as immaterial.

The Court: Read the question.

[fol. 1139] (Question read by the reporter.)

The Court: I will sustain the objection.

By Mr. Dixon:

Q. Now, Mr. King, I will ask you to examine again Government's Exhibits 1, 1-A through -G, inclusive, and Government's Exhibit 2, and state to the court, if you will, whether those exhibits and written forms of agreement were used by Richfield with any lessees who might be named therein during the period of time that you have been associated with Richfield.

(Witness and counsel conferring.)

The Court: All right, let us in on the conversation now.
The Witness: Will you read the question, sir?

(Question read by the reporter.)

A. Yes, sir, these forms have been in use with the operators of L-O stations for that period of time.

By Mr. Dixon:

Q. And these forms that I have mentioned deal with what you refer to as the L-O type of station?
A. Yes, sir.

Mr. Dixon: The Government offers into evidence as Exhibit 6, if that is the next in order, Schedule No. I through VII, inclusive, of the stipulation.
Does your Honor want to take a recess?

The Court: Yes. Do you want to?
Mr. Dixon: We can discuss how we will put this in with [fol. 1140] counsel.
The Court: I was waiting for a good stopping point.

(Short recess.)

The Court: All right, gentlemen.
Mr. Dixon: For the time being, your Honor, we will withdraw our offer of certain designated documents which we were going to ask be given an exhibit number for identification. Is that clear?

The Court: What was it. You said you withdraw an offer?

Mr. Dixon: No. We withdraw our designation of any document which we asked be given an exhibit number for identification at this time.

The Court: I don't remember that we have any.

(Mr. Dixon's offer read by the reporter.)

The Court: Is that what you want to withdraw?

Mr. Dixon: Yes, and ask that that portion of it be stricken from the record from there on.

The Court: All right, it may be stricken from the record.

By Mr. Dixon:

Q. Are you familiar, Mr. King, with the type of arrangement entered into between your company and the operator of retail service station outlets which is referred to by your company as the 3-C type of arrangement?

A. I believe so.

Q. Will you explain to the court, if you can, what that [fol. 1141] type of arrangement is with reference particularly to the sale to the retail outlet operator of petroleum products?

A. The 3-C proposition comprises a lease from the service station dealer to Richfield and a sublease back to him, together with a contract calling for the sale and the purchase of a stipulated quantity of gasoline.

Q. Is that one entire arrangement, that is, are those leases from the dealer to Richfield and the sublease back from Richfield to the dealer and the sales contract, which we will refer to as Government's Exhibits 4, 4-A, and 4-B, executed by Richfield and the dealer at the same time?

Mr. Paradise: May I make the same objection, if your Honor please, as to lack of foundation. I think we have a critical time period involved in each of these particular forms.

The Court: I think after this preliminary question is answered I will ask a question directed to the time.

A. I have here the operator's lease and operator's sales contract as was in use in August 1948.

Mr. Dixon: '45.
The Witness: Is that '45? I can't see, sir.

A. As in use in 1945.

By Mr. Dixon:

Q. And were the forms Government's Exhibits 3, 3-A, 3-B, 3-C, and 3-D used by Richfield under the 3-C type of arrangement prior to that time and since March and since [fol. 1142] November 1937?
The Witness: Read the question, please, sir.

(Question read by the reporter.)

By Mr. Dixon:

Q. The latter dates being the print dates contained on those exhibit forms.
A. The 3-C proposition, as we call it, did not come into use until 1945 or 1946, and these documents I have here—
Q. That is, Government's Exhibit 3, 3-A through -D, inclusive.
A. ——were used in connection with another type of lease and sublease proposition which we termed the 2-B in 1937.
Q. In other words, the 2-B type of arrangement was used up until the time Richfield adopted and used the form shown by Government's Exhibits 4, 4-A through -D, inclusive, is that correct?
A. Will you identify the 4-A? Is that the one that I——

Mr. Dixon: Just looked at.
The Witness: The one I just looked at?
Mr. Dixon: Yes.

A. The forms which I have here of print date of '37, that type of proposition we discontinued sometime around '42 or '43, and the 3-C proposition which has this print date of '45 came into general use about that same date. In [fol. 1143] between those dates we did not use this type of proposition. I am speaking of the lease and sublease, in soliciting business.

Mr. Paradise: If the court please, the stipulation to which counsel referred at the beginning of the trial and which was received with the clerk as custodian, but was not

filed, is called "STIPULATION RE INTRODUCTION OF CERTAIN EVIDENCE", and then in parentheses (Paragraph 1 of plaintiff's subpoena dated September 7 1950.) That is the stipulation between counsel consisting of some seven pages, entered into this last week and to which are attached the forms of these various types. I thought the purpose of both Government counsel and ourselves was to expedite the trial and to save the court's time.

The forms that are attached are the various print forms the pages of the stipulation stipulate as being true, for the purposes of this case, that these forms were used and the dates during which they were used, and I referred to those earlier.

I do not think it is Mr. Dixon's purpose to attempt to impeach the stipulation, but nevertheless, I feel that it would expedite the matter if all of this material were in one place, and that is the reason why we entered into the stipulation.

May I suggest that the original stipulation be filed? [fol. 1144] Mr. Dixon: Counsel may make it as a part of his case, if he cares to do so, but the government has already offered and has in evidence those forms of agreement which it wishes to have before the court, and it has not offered the entire stipulation because it does not want to increase the record beyond what it believes should be reasonably necessary to get the facts before the court.

If counsel wishes to stipulate that these forms now in evidence were used by the defendant during the periods subsequent to their print dates, counsel for the government will gladly so stipulate.

The Court: I think there is an advantage at the present stage of the case if a live witness intersperses himself between these documents with a narrative of their use. It helps the court to establish a framework.

Mr. Paradise: I see.

The Court: So that for the present we will leave the stipulation as it is, unless you want the stipulation offered as your exhibit. Then I will receive it as bearing upon the testimony testified to by this witness.

Mr. Paradise: Well, we can offer it as a part of our case. I thought maybe this would expedite the examination.

The Court: All right.

Mr. Dixon: May I have the last question, please?

(The record was read.)

[fol. 1145] The Court: Evidently there wasn't any question pending.

Mr. Paradise: I was not making an objection, your Honor, except merely offering the stipulation.

The Court: Counsel thought there was a question pending, but there was not.

Mr. Paradise: I see.

By Mr. Dixon:

A. Handing you Government's Exhibits 3 and 3-A, state to the court, if you can, Mr. King, whether the rent contained in Government's Exhibit 3 to be paid by Richfield to the lessor was the same as the rent to be paid by the lessee from Richfield in Government's Exhibit 3-A, as a matter of policy of the company.

A. I have here the lease and sublease papers that we call the 2-B proposition, which were in use in 1937 and for several years thereafter, and I cannot recall at this time that the rent paid and the rent received was identical.

Q. Well, do you know, as a matter of fact, whether it was the policy of Richfield, in negotiating these 2-B or 3-C transactions to pay the dealer the same rent on his lease to Richfield, Government's Exhibit 3, as Richfield was paid by the dealer in the sublease of that same property by Richfield to the dealer, Government's Exhibit 3-A?

A. During the period that these leases were in use, I believe that the practice varied; that sometimes the rent paid and the rent received were the equivalent, and in [fol. 1146] other cases the rent paid by Richfield was more than the rent received by Richfield.

The Court: You mean the total, both the fixed amount and the additional gallonage, or just the fixed amount?

The Witness: Your Honor, the gallonage feature—I would suggest that you do not confuse the gallonage feature that we discussed in connection with Form 542 with this document here.

The Court: I see.

The Witness: This involves Richfield's leasing a station

from an independent dealer, and leasing it back to him, concurrently with a sales contract. I think our practice——

The Court: I had forgotten you had switched to another form.

The Witness: I think our practice varied during those years, and I can't recall exactly, but substantially as I have testified.

The Court: All right.

By Mr. Dixon:

Q. Do you know what the policy of Richfield is today with reference to the rentals to be paid the operator under leases of the type of Government's Exhibit 4 through 4-A to D, inclusive?

Mr. Paradise: Object on the ground of lack of foundation, if the court please. Those forms have not been used [fol. 1147] since 1948.

The Court: We will find out. If they are not in use, then the policy is not in vogue. Go ahead.

The Witness: I cannot correctly answer that question.

By Mr. Dixon:

Q. Are all of the 3-C form of arrangements set forth in Government's Exhibit 4 through 4-A to D, inclusive, subject to your approval?

A. My personal approval?

Q. Well, if you delegate it to someone else, it would still be yours, I assume. Subject to the approval of your office?

A. The policy directing the negotiation of these propositions, yes, is subject to my over-all approval.

Q. Is that true, also, with reference to any of the leases which might be executed by Richfield under the L-O type of arrangement, exemplified by Government's Exhibits 1 through 1-A to G, inclusive?

A. Yes, I would have the final approval of the policy governing the writing of the 542 leases with service station operators.

Mr. Paradise: May I ask that the question be stricken, your Honor please, and for the purpose of clarity of the

record I should insist upon the objection of lack of foundation. This stipulation shows that the forms referred to by counsel in his last question have not been used since 1937, [fol. 1148] at least that certain of them haven't, and the question is: Does Mr. King, in his personal capacity as vice-president, approve these. I think we are getting a confused record unless a foundation is laid.

Mr. Dixon: I don't think the question is improper. May we have it read? It relates only to whether this witness approves the L-O type of arrangement, whether it is subject to his approval before it becomes effective.

Mr. Paradise: But you mentioned Exhibits 1, 1-A through 1-G.

Mr. Dixon: Well, as exemplified by that type of arrangement. Admittedly, he could not approve it while he was acting as vice-president.

The Court: That question assumes that they are still in vogue.

Mr. Dixon: Some of them are, Judge.

The Court: Then if that does not apply as to all of them, I will sustain the objection to the question, because an answer to the question would not clarify the matter.

Mr. Dixon: All right. I will withdraw the question.

The Court: You can ask him to segregate those that you think are still in vogue, and then you can ask him as of today as to those which are in vogue if he has the approval of them. I think you had better reframe your question.

Mr. Dixon: I will be glad to, Judge.

By Mr. Dixon:

[fol. 1149] Q. What form numbers are used by Richfield, and have been used by Richfield since you have been vice-president in charge of sales, with reference to the L-O type of arrangement, Mr. King?

A. This form that I have here, No. 542, of print date of 1-49, substation lease, your identification No. 1-G, is the form currently in use with the operators of L-O service stations.

Q. Before that lease can be executed and become final by Richfield, it is subject to your approval, is it, Mr. King, or the approval of your office?

A. We have a—there has been established, rather, a line of authority for the approval of various documents which the corporation uses or negotiates, and this, under my authority or approval, or authority I have delegated, this document here is negotiated and executed provided there are no deletions or changes by the division managers.

Q. Is his action in executing that in any way subject to your final approval, or the final approval of your office?

A. He executes——he can execute this document within the boundaries of the policy as laid down by my office.

Q. What do you mean by "policy"? The policy that you have previously described, that the L-O type of lease may not be entered into with any lessee except on the conditions that you have described?

[fol. 1150] A. Yes, that I have heretofore described, and including our policy with respect to the rent to be collected from that lessee.

[fol. 1151] Q. And with reference to this L-O type of arrangement 1-G what is the policy of your company with reference to the execution of that type of a form by a lessee on the purchase by the lessee of his requirements of automotive accessories that are handled or sponsored by your company?

The Witness: Would you read that question, please, sir?

(Question read by the reporter.)

A. When we select an operator for an L-O station, as I have mentioned heretofore, he is instructed beforehand as to the manner in which he must operate this station, and among these instructions we provide him with what we call a balanced list of TBA items that we recommend be handled, and specifically we point out to him that——we point out to him and list for him those TBA items which are approved for sale to Richfield's customers who hold a Richfield credit card. This is in the matter of instruction by our representative who has made the arrangements with the operator, and in order to better accommodate or in order to accommodate the demands of Richfield's trade we request that he handle the approved items.

Q. And that is made, is it not, a condition of the lease which he may enter into under the form Government Exhibit 1-G?

A. He may——

[fol. 1152] Q. Can you answer that yes or no, Mr. King, please?

The Court: He objects to that form. He likes to make it stronger than your question which asks isn't it a condition.

The Witness: I can't answer your question as you would like to have me answer it.

Mr. Dixon: All right. Will you answer it in your own way, then, Mr. King?

A. For this reason, because we had numerous instances where the operators have not carried——

The Court: It means is that a basis on which the deal is started. Whether they comply with it or not is not involved.

The Witness: All right. Read that question, please.

(Question read by the reporter.)

The Court: As far as you are concerned.

A. That is not an iron-clad condition, no.

By Mr. Dixon:

Q. What are the exceptions to it, Mr. King?

A. The operator has and they do handle many items of TBA that are in addition to our approved items of TBA. He often does not handle the complete items included in the approved list, and I believe that generally there are many exceptions along those two lines.

The Court: They relate merely to the size of his inventory, do they not?

[fol. 1153] The Witness: What did you say, sir?

The Court: They relate merely to the size of the inventory, do they not?

The Witness: That would be——

The Court: Both as to numbers——

The Witness: Numbers and the variety.

The Court: And the variety, that is it.

By Mr. Dixon:

Q. But if the lessee under Government Exhibit 1-G wishes to handle any automotive accessories at the outlet leased to him under that form and Richfield has contracts with suppliers of such items, he is expected, is he not, to acquire them through the Richfield source of supply?

Mr. Paradise: I object to that as calling for the conclusion of the witness in the form in which it is framed.

Mr. Dixon: It is.

The Court: Well, overruled. Go ahead. I think he has answered that question.

Mr. Dixon: I think he has, too, Judge.

The Court: The reason of the policy change. Go ahead.

The Witness: Would you read the question, sir?

(Question read by the reporter.)

A. Yes, we would like to have him acquire those items through that source of supply.

By Mr. Dixon:

Q. Is that made clear to the lessee at the time he enters into Exhibit 1-G?

[fol. 1154] A. He is informed of the TBA distributor handling our approved items and who is in a position to serve him.

Q. And is he told that he is expected to get any TBA requirements that are contained in the Richfield list of TBA items through the Richfield source of supply?

A. Well, our representative handling this particular unit or station instructs him, as I have told you, as to our approved list of TBA items which are authorized for sale on our credit cards, and he can or cannot, as he sees fit to, buy those items from the distributor who is functioning in that particular area.

Q. Yes, I understand that. But suppose he wants to buy some tires or tubes and batteries and the Richfield source of supply handles tires, tubes, and batteries, is the lessee under the L-O type of arrangement, Government's Exhibit 1-G, expected to acquire them through the Richfield source of supply, Mr. King?

A. If he wants to stock those items of TBA, why, we

would like to have him buy them from the designated distributors.

Q. And you make it clear to any lessee under 1-G, do you not, at the time it is entered into by the lessee that that is what is expected of him?

A. That is correct.

Q. Now coming back to the 3-C type of arrangement, I believe you testified that that type of arrangement must [fol. 1155] be approved by your office or yourself before it becomes the action of Richfield, is that correct?

A. Yes, it must be approved by those in authority who have been delegated the responsibility for approving them.

Q. And those are persons that are under your direct supervision?

A. Yes, sir.

Q. I will hand you Government's Exhibit No. 4 and ask you if anything is contained therein with reference to the sale of automotive accessories on the property or in the property that may be covered by that lease?

And, your Honor, for your information, this is the lease under the 3-C deal from the operator to Richfield.

The Court: All right.

Mr. Dixon: In 1945.

A. You refer, Mr. Dixon, to all three documents that make up the 3-C proposition. I have only the lease here.

Q. Yes. I am asking you if you find anything in that lease to you from the dealer or from the lessor who becomes the dealer under the 3-C arrangement, anything with reference to the use or sale of TBA items on the property covered by the lease.

Mr. Paradise: Which exhibit does that refer to, Mr. Dixon?

Mr. Dixon: 4.

[fol. 1156] Mr. Paradise: 4 alone?

Mr. Dixon: 4 alone.

The Witness: What is the question again?

(Question read by the reporter.)

A. In this form I have here of print date which was in use in November of 1945, paragraph 4 does state that he would have that right, or this lease to Richfield gives

Richfield the right to store and distribute automobile accessories in its function as a service station.

Q. It is a fact, is it not, Mr. King, that Richfield never operates any retail outlet under that lease, certainly as long as the lessor therein is the lessee under this sublease, Government's Exhibit 4-A?

A. No. We would never operate any station covered under a 3-C proposition if the lessor was not the operator of the station.

Q. So that that is the only time that that arrangement is in effect, is that correct? By "arrangement" I mean this lease, sublease, and sales arrangement with the lessee and lessor, too? Do you understand my question?

The Witness: I do not believe I quite understand the question, sir.

Mr. Dixon: All right, I will withdraw it.

Q. Do you know of any situations in which the Richfield Company has ever operated a station or outlet under the Government 4 type of a lease?

[fol. 1157] A. By other than the lessor to Richfield?

Q. Yes.

A. No.

Q. If there were any such situations, would they come to your attention as being unusual in the course of your operations as vice-president of the company in charge of marketing?

Mr. Paradise: Oh, I say that that is argumentative and contrary to the evidence.

Mr. Dixon: All right, I will withdraw it.

The Court: He has told you he doesn't know anything about that, and you ask him if it existed, would you know?

Mr. Dixon: I agree, your Honor, the question was argumentative.

The Court: He has answered.

By Mr. Dixon:

What cancellation rights, if any, do you find that the lessor has under Exhibit 4-A?

Mr. Paradise: Exhibit 4-A?

Mr. Dixon: 4. I am sorry. Not 4-A.

A. I would have to refresh my memory with respect to the rest of this document.

Q. All right. I won't ask you to do that at this time. Do you know what cancellation rights, if any, Richfield has under that lease?

Mr. Paradise: Well, I think the document speaks for [fol. 1158] itself, your Honor.

Mr. Dixon: I am asking this witness, your Honor.

Mr. Paradise: He is calling for interpretation of a written contract.

The Court: All right, go ahead.

A. As I recall, there is no cancellation privilege there. The document is as broad as it is long. It is a lease from Richfield and a lease back for the same period of time.

The Court: That is right. In other words, clauses like the ones you talked about earlier in the day as to the L-O form where there was a 30-day cancellation clause, then changed to a 24 hours, do not exist in this contract?

The Witness: No, they do not, your Honor.

The Court: In other words, you take the lease—let us use the word "prime." We are back in wartime. Let us talk about the "prime." You take the lease from your prime lessor for a definite term and then you pass it down to your lessee for the same term?

The Witness: That is right.

The Court: Is that true?

The Witness: That is correct.

[fol. 1159] The Court: All right. Is this a good stopping point?

Mr. Dixon: Yes, it is, Judge, because I can't finish.

The Court: Oh, no. When you go slower, I will prod you, but not the first day anyway, not in a case which will take several weeks to try.

Mr. Dixon: I think this is as good a place as any to call it a day.

The Court: All right, Mr. King.

The Witness: Thank you, your Honor.

(Witness temporarily excused.)

The Court: Do you have any witnesses you want me to instruct to return, or will you take care, in a case of this character, of your own witnesses?

Mr. Dixon: I think we can take care of them today, Judge. We have, unfortunately, quite a few that have come from outside of the state.

The Court: We will put them on and get them out of the way as quickly as we can.

I want to explain to those who come from outside the state that we try to co-operate. This case was set for this day. I promised counsel we would go to trial today, and if you look at the record you will find that we worked very long hours in the last few weeks to clear the calendar. It is impossible to put everyone on at the same time. Those of you who are businessmen know when you come into the [fol. 1160] court room that we cannot run it like a factory, because there are too many human elements that are involved. So you are under subpoena, and you have to come back, but it is the aim of counsel for the government and counsel for the defendant not to inconvenience you any more than is necessary. You will be called as quickly as we can get around to you. Some of you may wait around for several days until your turn comes. The thing is that we have to draw a frame, draw a pattern, and it is necessary to do the groundwork so that an understanding narrative can follow.

Where it is absolutely urgent and it can be done, we can even put you on out of order, but everybody has to be patient in a case of this character, which takes many, many months of preparation and takes many days to present to the court. But we will see that we work along with one another. We have to consider the needs of the litigation and the needs of the particular witnesses, too. Ultimately everything must be subservient to the needs of the litigation.

I assure you no one is just deliberately making you sit around longer than you need to, in order to use you in the case. The moment they are satisfied they can put you on, they will. And if they are satisfied that they do not need you, they will send you home.

With that statement, I will instruct all witnesses under subpoena who are in the court room to return tomorrow [fols. 1161-1164] morning at 10:00 o'clock.

(Whereupon, an adjournment was taken at 5:00 o'clock p. m., Tuesday, May 8, 1951, until 10:00 o'clock a. m., Wednesday, May 9, 1951.)

[fol. 1165] Wednesday, May 9, 1951. 10:00 A. M.

The Court: All right, gentlemen, cause on trial.

Mr. Dixon: Mr. King, may we have you back on the stand, please?

W. G. KING, JR. (Recalled)

Direct Examination—Resumed.

By Mr. Dixon:

The Clerk: You have already been sworn, haven't you?

The Witness: Yes.

The Clerk: You are W. G. King, Jr.?

The Witness: That is right, sir.

The Clerk: Just be seated.

By Mr. Dixon:

Q. Mr. King, I will hand you Government's Exhibit 4-A and ask you to examine the same and indicate, if you can, whether that document contains any provision with reference to the subleasing of that property by the lessee.

If your Honor cares for a copy of this?

The Witness: 4-A, yes.

Mr. Dixon: I have one here for you, Judge.

The Court: Oh, that is all right. Go ahead.

Mr. Paradise: I might indicate to the court that we will be perfectly willing to stipulate with counsel for the Government as to the terms of the written lease, if it will expedite the trial time. I do not believe this witness is [fol. 1166] familiar or that it—it is a burden to look through all the terms of a finely printed instrument of this sort.

The Court: If the witness cannot answer the question, perhaps it will result in a stipulation.

The Witness: Would you read the question, please?

(Question read by the reporter.)

A. This is the form that was 668, bearing a print date of 11, '49.

Mr. Dixon: '45.
The Witness: '45.

By Mr. Dixon:

Q. And that is the sublease back from Richfield to the operator under the 3-C arrangement that we referred to yesterday?

A. Yes, sir.

Q. And do you find any provision in that lease, Exhibit 4-A, of the type that I mentioned?

A. Well, it provides for the leasing of the station back to the operator. It provides for leasing the property back to the operator or the lessor.

Q. Did you understand my question, Mr. King?

A. Possibly I didn't.

Q. Directing your attention to paragraph 9 of Exhibit 4-A, is it your understanding that that provision gives Richfield any right at all to do anything?

Mr. Paradise: I must object to questions along this line, [fol. 1167] if the court please. He is asking the witness for a legal interpretation of a written instrument. I think that that is hardly proper examination.

Mr. Dixon: I realize it is, your Honor, and that was not the first question I asked but the witness apparently could not answer that.

The Court: I will sustain the objection to it. I have no objection to asking questions as to the presence of particular clauses in a particular contract, because they may form the basis of further inquiry as to whether that could be done under the contract. But a general question of the type propounded now is not fair to the witness, because it asks him to say in a summary fashion whether any rights are given or not. I will sustain the objection.

By Mr. Dixon:

Q. Do you know the purpose for the insertion in that form 4-A of paragraph 9, Mr. King?

I am sorry, Judge, I do not seem to have an extra copy of that.

Mr. Paradise: Does counsel refer to the paragraph beginning "Lessor warrants that"——

The Witness: No.

Mr. Dixon: No.

Mr. Paradise: Then I must have the wrong form.

A. Well, I can't see any other purpose than to sublease the premises back to the individual who is the lessor in this [fol. 1168] case.

The Court: Well, of course, and tie them to your products, isn't that it?

Mr. Paradise: Pardon?

A. The paragraph that Mr. Dixon refers to here makes no reference. I will read it.

The Witness: (Reading.)

> "This lease shall not be assignable, voluntarily or by operation of law, nor shall lessee sublet any part of the demised premises without the written consent of lessor first having been obtained. This lease shall not become an asset of the estate of lessee but shall terminate on his death."

The Court: You were entering into a relationship—we will call it a nameless relationship—a nameless relationship of a personal nature, and you express the rights you acquired under the lease, at the same time tying the man to certain conditions and obligations. And you wanted to make sure that you tied him and not somebody to whom he might sell, or even his heirs when he is dead. Isn't that true?

The Witness: But I would like to point out here, that in addition to this document, we entered into an agreement of sales.

[fol. 1169] The Court: Certainly, certainly. We are aware of that. But that is the first——

The Witness: I would say—pardon me, sir.

The Court: That is the first contract that related to it.

Mr. Dixon: May I interrupt, Judge? This is the sublease back from Richfield to the dealer.

The Court: Yes, that is right. I understand that. That is why I struck out——

Mr. Dixon: After the dealer has leased his property to Richfield under Exhibit 4.

The Court: Yes, I understand that.

[fol. 1170] By Mr. Dixon:

Q. Can you still answer my question, Mr. King?

A. Would you read that question, sir?

(The question was read.)

The Witness: Well, I can only answer that I think the paragraph speaks for itself.

By Mr. Dixon:

Q. Thank you. Now, this Exhibit 4-A is executed by the operator at the same time he executes a written sales agreement, is it not?

A. The three agreements which make up a part of this proposition are all executed simultaneously, yes.

Q. And the agreement which is executed by the operator with Richfield at the same time exhibits 4 and 4-A are executed is Government's Exhibit 4-B, is it not?

Mr. Paradise: Object on the ground of lack of foundation, if the court please. I would like to have the time fixed, as to the time when the instruments are being used as contracts.

Mr. Dixon: That is '45.

The Court: I think we are talking about documents that were executed as a series at or about the same time.

Mr. Dixon: That is right, Judge.

Mr. Paradise: My objection, if the court please, is that the entire group of documents, Government's Exhibits 4, 4-A and 4-B, have not been used since 1948, as the government knows.

[fol. 1171] The Court: That is all right.

Mr. Paradise: And the question as framed relates to the present time.

The Witness: This document, Form 783, bearing the date of 11-45 is the operator's sales contract, which is executed simultaneously with the lease and sublease we have discussed heretofore.

By Mr. Dixon:

Q. Now, directing your attention to paragraph 12 of Government's 4-A, is 4-B the agreement, the type of agreement that is referred to in that paragraph?

A. The paragraph you refer to is what?

Q. 12 of 4-A.

Mr. Paradise: May I suggest to the court that I am experiencing the difficulty of confusion in the exhibits, in view of the fact that this is a 3-C deal, and we have an exhibit 3-C, so I am confused. May I ask the question be read again?

(The question was read.)

The Witness: The answer is "Yes."

By Mr. Dixon:

Q. Now, directing your attention again to paragraph 4-B, do you find any provision contained therein with reference to the amounts of petroleum products that shall be purchased by the operator or other party to that exhibit from Richfield?

A. You refer to paragraph 4-B. You are referring to [fol. 1172] Exhibit 4-B, are you?

Q. Did I say "paragraph"?

A. Yes, sir.

Q. I am sorry. I am asking if you find anything in Exhibit 4-B dealing with that.

Mr. Dixon: I will give you my copy, Judge.

The date of that is '45. These are all in '45.

The Witness: This agreement, dated 11-45, provides in paragraph 1 for the buyer's entire requirements of the following automotive products.

By Mr. Dixon:

Q. Automotive petroleum——

A. Automotive petroleum products.

Q. This was the form which was adopted by the company and put into use in October or November, of 1945, Mr. King?

A. This form was in use in 1945. I believe that was the first time it was used, in that year.

Q. Now, I believe you testified yesterday that prior to this date, that is, November, 1945, you used what was called a 2-B type of arrangement, which involved the lease from the dealer or operator to Richfield, the sublease back, and a sales contract, such as was set forth in Government's Exhibits 3. Is that correct?

A. Yes. We had a proposition called the 2-B, as I testified, that was in use in 1937. However, it was discontinued, I believe I testified yesterday, along in 1941 or '42.

[fol. 1173] Q. But the provision that you have just referred to as being in Exhibit 4-B, as the entire requirements provision of that exhibit, was also contained in the 2-B type of arrangement between Richfield and the operator, was it not?

A. I couldn't answer that until I could inspect the 2-B document. It has not been in use for many years.

Q. Do you know what the policy was of Richfield with reference to the sale of petroleum products to the outlets that were handled on the 2-B and the 3-C type of arrangement?

Mr. Paradise: I object to the question on the ground that counsel is trying to examine the witness concerning the provisions of a written contract, Government's Exhibits 3. I think the witness' attention should be directed to the exhibit.

Mr. Dixon: I am asking if he knows, and this witness is the vice-president in charge of sales, and so forth. The policy, Judge. We will have the question read.

(The question was read.)

Mr. Paradise: I think counsel's question is confusing and unfair to the witness.

The Court: At the time they were used?

Mr. Dixon: That is right.

The Court: If you will so modify the question.

[fol. 1174] Mr. Dixon: At the time they were so used, certainly.

Mr. Paradise: Counsel assumes this witness was vice-president in charge of marketing at the time, and he is talking as to a period prior to 1947.

The Court: Mr. Paradise, by relating it to the time used the witness has an opportunity to answer. He can say he

was not vice-president and doesn't know. By so modifying it, I avoid the objection to the question.

As so modified, you can answer the question.

The Witness: Yes, your Honor. The 3-C proposition——

Mr. Dixon: Now, I don't want to interrupt.

The Court: Please don't interrupt.

Mr. Dixon: I am sorry.

The Court: Give him a chance to answer.

The Witness: Thank you, sir. The 3-C proposition and the operator's sales contract which we have read here calls for his buying his entire petroleum requirements. The 2-B proposition which I have pointed out was discontinued in 1941 or '42, and I haven't seen a copy of it recently, and I cannot say just what it did call for.

The Court: All right.

By Mr. Dixon:

Q. Now, I will hand you Government's Exhibit 4-D, the same being Richfield's form 668, dated September, 1948, and ask you to examine the same and state to the court what change, if any, was made in that exhibit, as compared [fol. 1175] with Exhibit 4-B, with reference to exclusive or entire requirements of the operator.

Mr. Paradise: I don't believe I have a copy of that exhibit, Mr. Dixon. May I see it?

Mr. Dixon: 4-D.

(Handing document to counsel.)

Mr. Dixon: I find we have so many forms, Judge, that I made an error in describing my form. It is 4-C, and not 4-D.

The Witness: Will you read the question, please?

(The question was read as follows:

"Q. Now, I will hand you Government's Exhibit 4-C, the same being Richfield's form——")

Mr. Dixon: Form 783.

(Continuing reading of question:——"Form 783, dated September, 1948, and ask you to examine the same and state to the court what change, if any, was made in that exhibit, as compared with Exhibit 4-B, with refer-

ence to exclusive or entire requirements of the operator.")

The Witness: This document, 783, under print date of 8-48, provides that the buyer shall purchase a minimum quantity of gasoline, lubricating oils and greases, which the seller agrees to supply. It also provides a maximum quantity of gasoline—or, provides for the insertion of a [fol. 1176] maximum quantity of gasoline, lubricating oils and greases, which is the limit of the obligation of the supplier. In other words, this document provides for the purchase and sale of a specified quantity of petroleum products. [fol. 1177] The Court: Well, that obligation works both ways. You obligate yourself to furnish him that maximum, but you do not say that he can have more.

The Witness: This agreement, your Honor, provides for a quantity of petroleum products.

The Court: The point is, you say you obligate yourself to give him that maximum, but he also obligates himself to take that amount, regardless of the quantity sold.

The Witness: Yes, sir, the minimum quantity here, your Honor, is a quantity that he obligates himself to take.

The Court: That is right.

The Witness: And we obligate ourselves to deliver. What did you say, sir?

The Court: Regardless of his requirements, he is required to take a minimum?

The Witness: Yes, sir.

The Court: And you obligate yourself to give him this minimum?

The Witness: Yes, sir, regardless of his requirements. He may buy more than that amount, and we restrict the quantity that we will sell him.

The Court: That you will give him?

The Witness: Yes, sir.

The Court: That is right.

By Mr. Dixon:

Q. At the time this change was made in the provisions [fol. 1178] of paragraph 4-C, as compared with the provisions of paragraph 4-B, both paragraphs of those exhibits

—I mean Exhibits 4-C and 4-B—were any instructions given to the district supervisors or any of the field representatives of Richfield as to how the figures to be inserted in paragraph 1 would be determined or arrived at?

A. Our representative who had the responsibility of negotiating these contracts had instructions that the quantity of gasoline, that is, the minimum quantity of gasoline which was to be inserted in this contract was not to exceed 85 per cent of the known or actual sales of the customer.

The Court: Well, the paragraph which followed the enumeration which indicates that the quantities are to be based—while it relates to separate quantities, it says that it is to be based upon the previous business experience by the station, isn't that true? Read that paragraph that follows the enumeration with the blanks.

The Witness: Yes, sir.

> The Court: "the aforesaid quantities will be proportionately reduced for said months based upon previous business experience of buyer's station or of business generally in the vicinity in the event Buyer's station has had no previous business experience."

So the entire quantities, both the maximum and the mini- [fol. 1179] mum, were related to what business he had done before, isn't that true?

The Witness: Not entirely so, your Honor. In the first place, the minimum fixes a monthly minimum. That was arrived at in the manner I have recently described, namely, that the quantity to be inserted there would not exceed 85 per cent of the customer's known sales.

The Court: That is right.

The Witness: Now, the next paragraph that you refer to provides that, due to climatic conditions. In other words, this minimum, you understand, is a monthly minimum.

The Court: That is right.

The Witness: The customer's requirements might be more or less in the month of February than in July, and that paragraph which you refer to provides that they can be raised or lowered proportionately.

The Court: But in putting in the amount—let us call it a "quota." Let us put in a new word and get away from

"requirement," just as we want to get away from "agency." We will have the word "nameless" for the relationship, this nameless relationship, and then use the word "quota." In fixing the quota that you agree to sell him and which he agrees to take, you bear in mind that he has done business at that corner before, his intake before, isn't that true? Well, all right. Supposing you are establishing a new station. Let us ask: Supposing you are establishing a new station at [fol. 1180] a new corner, then upon what would you base your minimum and maximum?

The Witness: Yes, I believe I can explain that, your Honor. First, in answer to your question, if it were a new station with no previous sales experience, our representative was instructed to arrive at with the dealer on a figure that would be mutually acceptable as to what his estimated sales might be, and then the figure to be inserted in the contract would not exceed 85 per cent of that estimate.

The Court: All right.

The Witness: Now, in the case of a station already established we, of course, would have the benefit of knowing what —we could examine the dealer's records along with him as to what his past sales had been, and we will assume that they had averaged 5,000 gallons of gasoline per month. Then the figure to be inserted in that contract would be 85 per cent of 5,000 gallons.

The Court: All right. But all of them ultimately were 85 per cent of a figure that represented either prior sales or what you thought the sales should be in case of a new station, isn't that right?

The Witness What we in conjunction with the dealer thought. That was our practice at that time, your Honor.

The Court: Well, many a time you bought out a station occupied by someone else. I know you have done it in our [fol. 1181] neighborhood. I know you bought out a Texaco on Hollywood Boulevard—no, at Sunset Boulevard, that we were trading with, bought the Texaco and tore it all out and put in a bigger establishment. There, if you could have had access to the Texaco figures, you might base it upon what figure the man did and hope you will do better, isn't that true?

The Witness: Yes, that possibly would be, your Honor, except if we were to purchase a dealer's station such as we

are talking about here, then that would mean, of course, that the seller or the former lessor would undoubtedly not have anything to do with the operation.

The Court: That is right, because you put your own man in it.

The Witness: That is correct.

The Court: All right.

By Mr. Dixon:

Q. So that under this paragraph 1 of Government's Exhibit 4-C the operator was to purchase as a minimum from Richfield 85 per cent of the estimated gallonage as set forth in the figures in any contracts of that type that were entered into——

Mr. Paradise: Objected to, if your Honor please, on the ground that——

By Mr. Dixon:

Q. ——between the operator and the dealer, is that correct?

May I finish my question, please?

[fol. 1182] Mr. Paradise: Forgive me. I am sorry, Mr. Dixon. Had you finished your question?

The Court: He had not finished it and he lost track of it, so we just start over again.

Mr. Paradise: I am sorry, Mr. Dixon.

The Court: Do you want to start over again or shall we have that portion read, because you are assuming something the witness did not testify to?

Mr. Dixon: I think we had better have it read.

(Question read by the reporter.)

Mr. Paradise: I object on the ground that it is contrary to the witness's testimony.

The Court: It is his interpretation of the witness's testimony.

Mr. Dixon: That is right.

The Court: I do not think this witness is going to be caught into any admissions he does not want.

Mr. Paradise: I agree with that, your Honor.

The Court: That is a compliment. You did not get it.

The Witness: Oh, thank you. Thank you very much, sir. I don't get many of those, your Honor.

The Court: All right.

The Witness: Do you want me to give a reply to that, sir?

The Court: Yes.

A. That is not correct, Mr. Dixon. Your question is not [fol. 1183] correct. I would like——

Mr. Dixon: I mean I want to get your answer, Mr. King, if I can.

A. Well, the answer is no to your question.

The Court: All right. Now, just a minute. If you want to explain your answer, all right. If you are satisfied with a negative answer, we will let it stand and let him try another one.

The Witness: I would just as soon explain.

The Court: Go ahead.

The Witness: This figure that is inserted in the contract represents the amount that the dealer obligates himself to purchase from Richfield. He has no obligation to purchase any quantity in excess of that. However, he may purchase additional products if he so wishes up to the maximum figure as inserted in the contract.

The Court: In other words, your interpretation of the contract is, between the minimum and the maximum lies a voluntary choice on his part?

The Witness: Yes, sir.

The Court: That if he wants to buy them, you will furnish them?

The Witness: That is right, sir.

The Court: If not, he can stop with that?

The Witness: Yes, sir.

[fol. 1184] The Court: I see. All right.

By Mr. Dixon:

Q. Handing you Government's Exhibit 5, the same being your No. 543 dated July 1937, entitled "Sales Contract," I direct your attention to paragraph 1 of that exhibit.

The Court: What exhibit are you talking about now?

Mr. Dixon: 5, Judge. I have a copy here for you.

The Court: Before we leave that let me ask one question. The type of contract we were just talking about, when a

station is contracted and the sales contract is entered into, the physical equipment, the number of pumps, for instance, from which gasoline is dispensed is fixed by the leasehold or the paper under which he holds the station, isn't that true?

The Witness: I don't think that the documents that we have discussed make any reference to the number of pumps at all, your Honor. In other words, we are talking about the sale of a fixed quantity.

The Court: Yes. But I mean either in that or in another document the physical property has already been tied by a contract which describes the equipment at the end?

The Witness: Oh, there might be in the case of a lease and sublease an exhibit A attached as a matter of record; in other words, the property we lease and the property that we lease back.

The Court: That is right.

[fol. 1185] The Witness: In case when the proposition has been terminated, why, the property can be accounted for.

The Court: Yes.

The Witness: But there is nothing that restricts the sale of the gasoline through the equipment that is in that station, the pumps, we will say.

The Court: Yes.

The Witness: Or the storage in the tanks. There is nothing to my knowledge in those instruments. We simply obligate ourselves to sell a specified amount of gasoline.

The Court: Yes. Put it the other way: Is there in any of these agreements a provision that he can increase his capacity, that he can increase his tankage by building or adding pumps without consulting you?

The Witness: To my knowledge, your Honor, there is nothing in any of our propositions that would restrict him making any changes whatsoever that he would want to make.

The Court: I see. All right, go ahead.

The Witness: Will you read the last question, please?

The Court: Well, it was answered. There wasn't any.

The Witness: This is a new one, sir.

Mr. Dixon: Before we get to the answer, Judge——

The Court: I wanted to tie that up.

Mr. Dixon: Yes. Maybe I can withdraw it, Judge. I

think I know what you have in mind and I might ask some [fol. 1186] further questions along that line. But go ahead with the question, Mr. King.

The Witness: Would you read the last question?

The Court: Read the question Mr. Dixon asked.

(Question read by the reporter as follows:

"Q. Handing you Government's Exhibit 5, the same being your form No. 543 dated July 1937, entitled 'Sales Contract,' I direct your attention to paragraph 1 of that exhibit.")

The Court: I didn't think he had completed it. That is why I stepped in. Go ahead.

By Mr. Dixon:

Q. (Continuing) ——and ask you whether or how the maximum, if you know—how the maximums and minimums to be purchased by the operator who signs Exhibit 5 are determined or were determined?

A. This form of date 7-37, if I recall correctly, was used in connection with—I believe it was used in connection with the 2-B proposition which was in effect in 1937, and the quantities at that time were arrived at by mutual agreement between our representative and the dealer.

Q. Were they arrived at in the same manner, that is, on estimating the gallonage of the station that was subject to that sales contract, as were the amounts in Exhibit 4-C that you have just referred to?

A. No. At that time our representatives did not have [fol. 1187] the instructions that they had that I recently gave you in connection with Exhibit 4-C. This is back in 1937, and it is my recollection that the quantities to be inserted in there were arrived at, as I say, by mutual agreement between the dealer and our representative, whatever amount they mutually agreed upon.

[fol. 1188] Q. So that no instructions, to your recollection, were given to any of the representatives of Richfield when they went out to secure the execution of Exhibit 5, with reference to the manner in which the maximum and minimum amounts provided for therein were to be arrived at; is that correct, Mr. King?

A. That is correct insofar as it pertains to instructions in 1937, yes, sir.

Q. Now, that same provision, that is, as is set forth in paragraph 1 of Exhibit 5, was contained in all of the other dealer arrangements or dealer sales contracts that were entered into by Richfield after July, 1937, and up until the present time, were they not, Mr. King?

Mr. Paradise: Objected to on the ground that it does not direct the witness' attention to a particular type of station. As the court knows, we have three different types involved.

Mr. Dixon: If the court please, I am asking some leading questions. They are rather involved.

The Court: It is not a question of leading. It is that they are like a Mother Hubbard, they cover too many things. You ought to differentiate.

Mr. Dixon: I am very glad to do so, your Honor, and I might explain the only reason for asking this type of question is that presumably, and it is my understanding, Mr. [fol. 1189] King was a district supervisor, and now is vice-president in charge of marketing and is familiar with these things, and I thought I would save time by not having to refer to all of the five exhibits.

The Court: If he can answer. Can you answer that question without referring to it in a specific way, or shall we have it broken up?

The Witness: Will you read the question?

(The question was read.)

The Witness: The answer is "No" to your question.

By Mr. Dixon:

Q. Handing you Government's Exhibit 5-B, the same being your Form 337, dated June, 1938, the sales contract; Government's Exhibit 5-D, your Form 337, dated August, 1948, the same being the sales contract; and Government's Exhibit 5-G, your Form 337, dated February, 1951, entitled "Sales Contract," I will ask you to examine the same and state to the court what the differences were that you find, if any, with reference to the amounts of gasoline or petro-

leum products to be purchased by the other party to those agreements with Richfield.

A. With respect to Exhibit 5 I have recently—I have answered that question, or answered the question as to how the quantities were arrived at in that agreement.

Q. Yes.

A. We now come to Exhibit 5-B, and Exhibit 5-B, which [fol. 1190] bears the date of 1938, Form 337, at that time it was our practice to insert a quantity of products to be purchased that was mutually agreed upon between our representative and the customer.

Q. That is paragraph 1 of that exhibit; is that correct?

A. Paragraph 1, yes, sir. We now come to Form 337, under date of 8-48, Exhibit 5-D, and it was our practice at that time, our policy and our instructions to all representatives, that the amount of gasoline, the minimum amount of gasoline, to be inserted there was arrived at by the formula I have previously described, namely, that it was not to exceed 85 per cent of the known requirements of that customer.

We now come to Form 337 under print date of 2-51, Exhibit 5-G. Along, or sometime, I believe it was in 1950, our instructions to our representatives were changed, and from that time on up to the present they are to insert a minimum quantity of gasoline, or, the minimum quantity of gasoline that the buyer agrees to purchase is fixed under our formula, but not to exceed 75 per cent of the dealer's known requirements.

Q. That is, that is the maximum amount that Richfield agrees to deliver to the outlet or to the other party to that sales contract, Exhibit 5-G?

Mr. Paradise: Your Honor, I must object to a question [fol. 1191] of that sort. I think that indicates the fallacy of permitting an examination of a witness as to the provisions of a written contract. That is an obvious misinterpretation and a misstatement of the language of the contract.

The Court: Let's hear the question. I was reading something here.

(The question was read.)

The Court: Overruled.

The Witness: Pardon me, sir. I misunderstood. It was overruled.

No, that is not correct, sir. I have explained that the dealer through the formula that I have described agrees to purchase a minimum quantity of gasoline. He is under no obligation to purchase in excess of that figure, though he may, if he so desires.

By Mr. Dixon:

Q. Did you understand my question, Mr. King?

A. I believe I did.

Mr. Dixon: Would you read my question, please?

(The question was read.)

Mr. Dixon: Do you want your previous answer read, on which that question is based?

The Witness: All right. If you will go back and read the previous question and the answer.

(The record was read.)

[fol. 1192] The Witness: No, that is not. That is, the minimum as inserted there is the minimum quantity that the dealer is obligated to purchase.

The Court: But as to that minimum, you have inserted in those two last versions which are marked 8-48 and 2-51 a clause which fritters away your obligation to give them the minimum, but you have stated, in effect, if you cannot deliver, you merely reduce his obligation, and you may discontinue his deliveries for various reasons, and then you also add a clause that you can prorate it.

The Witness: Your Honor, are we looking at the same thing?

The Court: Wait a minute. We are looking at 2-51.

The Witness: Oh, yes, 2-51.

The Court: You see, that clause is the same. That second clause is the same as under the——

The Witness: This one here, sir.

The Court: Yes, is identical with the one before. In other words, perhaps I haven't followed the language, but that seems to me is new, because it reduces your obligations so

far as the minimum is concerned, by saying it is discretionary with you whether you are going to give him any at all, and if you don't give it to him, then he has no recourse except that you reduce his obligation to take less than he had promised to take.

[fol. 1193] The Witness: Let me read this.

The Court: Yes, read that. That is the way it reads, to me. Maybe it has a different meaning to you.

The Witness: Well, that is simply a force majeure clause, as I interpret it, by which, for reasons beyond our control, to this customer we could reduce the deliveries proportionately as we did all deliveries.

The Court: That is the second clause, but the first clause does not say that. It says:

> "The obligation of seller to deliver the minimum quantities above specified shall at all times be subject to Seller's right to be exercised within its sole and exclusive discretion with or without notice to discontinue, restrict and/or curtail the delivery of and/or to change the specifications of any product in the event of shortage of products, crude, base materials, additives, transportation, or labor and/or for any reason similar or dissimilar to the foregoing."

[fol. 1194] The Witness: That is what I would interpret that, your Honor, as being, just that we have qualified it that by reason of any shortages, labor difficulties, and so on. Now, I can add this, that I know of no instance where we have failed to deliver the minimum quantities as set forth, as long as the dealer wished to purchase and accept those quantities.

The Court: All right.

By Mr. Dixon:

Q. Coming now, Mr. King, to the exhibits, Government's Nos. 5-A, 5-C and 5-E, entitled "Painting Agreement," dated August, 1937, June, 1939, and August, 1948.

Mr. Dixon: That is the first one, Judge.

(Handing document to the court.)

I regret that we do not have an extra copy of the other two exhibits.

The Court: That is all right.

By Mr. Dixon:

Q. Those were the agreements, were they not, Mr. King, which were generally entered into with the other party to the sales contracts, Exhibits 5, 5-B, and 5-D, and 5-G, that we have previously referred to?

A. These painting agreements were used over a period of years, starting with your Exhibit 5-A, which was in use in 1937, and 5-C, which was used in 1939, and 5-E, which has been in use since 1948, and, I believe, up to the present [fol. 1195] time.

Mr. Paradise: Your Honor, for the purpose of the record, your Honor will recall that these particular four exhibits are those to which an objection was interposed and they were admitted subject to a motion to strike.

The Court: That is right.

Mr. Paradise: May I make an objection for the purpose of the record that the testimony concerning the painting agreements is similarly subject to a motion to strike?

The Court: All right.

By Mr. Dixon:

Q. Directing your attention to those exhibits, I will ask you to examine the same and state whether you find any provisions contained therein with reference to the putting up of signs on the property, which may be painted under those agreements?

A. Will you read the question, please?

(The question was read.)

The Witness: The agreement provides——

By Mr. Dixon:

Q. Which one?

A. I am reading 5-C, dated 6-39, that the agreement permits Richfield to paint the station in Richfield colors and insignia.

Q. Now, Mr. King, before we go on to the other exhibit, may I ask, since the judge does not have a copy of this agreement, that you read the provisions of paragraph 1 of [fol. 1196] Exhibit 5-C to the court.

A. Paragraph 1 of Exhibit 5-C, under date of 6-39, the agreement that was generally used at that time, provides in paragraph 1:

> "That dealer shall remove from the surface of the service station which is to be painted all signs and insignia, and upon completion of the painting of said service station by Richfield, shall not place upon or over the painted surfaces any advertising, sign, trademark, insignia, or any other matter, without first procuring the consent and approval of Richfield."

Q. Do you know the purpose of that provision, Mr. King?

A. No, I can't say that I do know the purpose of that, because I was not in authority when that document was originated.

Q. Were you acting as, or were you in charge of the Southern Division of Richfield at the time that agreement was first used, namely, in 1939?

A. Yes, sir.

Q. Did you have occasion to use that agreement while you were in charge of the Southern Division?

A. Yes, sir.

Q. It is a fact, is it not, that it was used in that form [fol. 1197] for a considerable number of years thereafter?

A. I recall the form in general use at that time, sir, yes.

Q. But you cannot state to the court what the purpose of that provision was? If you know?

A. Well, I assume—— no, I ——

Mr. Paradise: I object to assumptions. The question relates to knowledge. I think the question has been asked and answered.

The Court: No, he is asking him specifically. Maybe I can help. The entire contract is worded so as to show a desire to put the colors of Richfield and the insignia of Richfield on the station to such an extent that you were willing to do the work for nothing if he complied with the conditions of the contract. If he violates it in any way,

then he had to pay the sum, whatever it had cost you to paint it, which you inserted there?

The Witness: You are right in that respect, your Honor. Painting of stations is a competitive practice. We find that it is demanded.

The Court: That is right. But you did keep the station tied, in that you are interested in making it a Richfield station, namely, with your colors, and your advertising, and you reserved the right to permit or not to permit any other insignia to go on.

[fol. 1198] The Witness: I think that would be a natural conclusion, since we have invested a considerable sum in painting the station.

The Court: That is right. Once more you are forthright.

The Witness: Thank you, sir.

By Mr. Dixon:

Q. I will hand you Government's Exhibit 5-E, Mr. King, dated August, 1948, being your Form 59, entitled "Painting Agreement," and ask you if you find the same provision contained therein.

A. Paragraph 1 of this document, Exhibit 5-E, under date of 8-48, reads that "Dealer shall remove from the service station which is to be painted all signs, insignia and obstructions, so that the obligations of Richfield hereunder may be performed with a minimum of hindrance."

Q. So that the provision that we previously referred to in Exhibit 5-C you do not find in Exhibit 5-E; is that correct?

A. That is correct. Paragraph 1 has been changed.

Q. Do you know the reason for that change, Mr. King?

A. No, I do not.

Mr. Dixon: Your Honor, I am perfectly willing to go right on through, but I assume you may want to take a recess.

The Court: Yes. I think we will give the witness a rest. [fol. 1199] We will have a short recess.

The Witness: Thank you, sir.

Mr. Dixon: This was a good stopping point, Judge. That is why I suggested it.

(A short recess was taken.)

[fol. 1200] Mr. Dixon: The Government offers Exhibits marked No. 6, 6-A, 6-B, 6-C, 6-D, and 6-E for identification in evidence.

(The documents referred to were marked Plaintiff's Exhibits 6, 6-A, 6-B, 6-C, and 6-E for identification.)

Mr. Paradise: If the court please, the defendant objects to the introduction in evidence of any of the exhibits so identified on the ground of complete lack of relevance or materiality to any issue in this case. These agreements are agreements between the defendant, on the one hand, and commission agents who operate as bulk plants. There is no issue in this case as to the nature of the dealing between Richfield and its commission agents or its operators of the bulk plants. This case is confined to dealings between Richfield and the service station dealers and operators.

The Court: I think in view of the contention of the defendant that the relationship with the station handlers, the station owners, is some type of fiduciary relationship which has been left nameless, in view of the reference to the Masonite use of the words *del credere* agency which has a strict meaning, I believe it bears upon the issue to show the type of strict commission agency which Richfield itself establishes, where a relationship which would commonly be called that of a factor is established. What effect to give to them is a different problem. The objection is overruled.

Mr. Dixon: They are received in evidence, your Honor?

[fol. 1201] The Court: They may be received in evidence.

By Mr. Dixon:

Q. In our previous testimony, Mr. King, you have dealt, I believe, with various types of arrangements between Richfield and the operators of retail outlets at which Richfield products were sold. Those agreements which you referred to and looked over were all written agreements. Does Richfield sell petroleum products to retail outlets under any oral arrangements with the operator of that retail outlet where he receives gasoline or other petroleum products from Richfield for resale purposes to the consumer or user?

Mr. Paradise: Object to the question, first, on the ground of vagueness and ambiguity. I think counsel should define the words "oral arrangement." More importantly, it goes to the question of the materiality, if the court please.

The Court: It is merely a preliminary question. He wants to know if there are other forms of arrangements which are not represented by agreements in writing or supplementary agreements in writing. Overruled.

A. I think that we have reviewed here yesterday and today all of the written forms of contracts that we use, and we do not have any oral agreements.

The Court: All right.

By Mr. Dixon:

Q. Do you know what is meant by the term "uncontracted outlet," Mr. King?

[fol. 1202] A. I would take that to be an account that we are selling gasoline, a retail account that we are selling gasoline to where we have not entered into one of the written agreements that we reviewed.

Q. So that there are, then, other outlets—I mean types of arrangements which are entirely oral, which are entered into with the operators of these retail outlets who purchase petroleum products from Richfield?

Mr. Paradise: Now, I think, if the court please, is the time to make the objection on the basis of materiality. This is a matter to which I adverted during my opening statement and the court requested that I defer it until evidence was offered.

The Court: I will sustain the objection in view of the statement of the witness that there are no oral arrangements and that the only type of dealings are covered by those. Other contractual arrangements that they may have are not within the scope of this inquiry. We are talking about dealerships, and uncontracted for outlets may mean a lot of things not dealerships, and until you show there are dealerships covered by them, I will take his denial as sufficient for the present.

By Mr. Dixon:

Q. Does Richfield in fact, Mr. King, sell petroleum products to operators of retail outlets without any written arrangement of any kind whatsoever with the operator of [fol. 1203] the outlet?

A. Yes, sir.

Q. How many outlets of that kind, if you know, does Richfield sell its petroleum products to?

Mr. Paradise: Objected to on the ground of materiality, if the court please. May I make the statement concerning the basis of our objection?

The Court: Yes.

Mr. Paradise: This is a matter of the issues in this case, if the court please. These uncontracted accounts are identified as service stations or outlets who purchase the gasoline from Richfield without a contract of any nature, oral or written. The Richfield has provided the Government with information concerning these in response to interrogatories, but we have always taken the position and have so informed the Government as far back as 1949, that there is no issue in this case as the pleadings frame the issues concerning any accounts of service station other than—No. 1, the L-O stations, which are Richfield's own stations in which we have these operators; 2, 3-C stations under which there is a written lease, a sublease back and sales contract; and 3, the so-called 337 stations, where there is written sales contract and on some occasions a written painting agreement.

Those are the agreements which are the subject matter of the Government's Exhibits Nos. 1 through 4.

[fol. 1204] Now, the complaint, if the court will examine it, refers to particular types of service station transactions. I call the court's attention first to paragraph 12 which refers to 2600 service stations which are defined to fall into two categories. First, there are approximately 1200 in it which are leased to operators by defendant under written lease agreements, and the second category is 1200 which are alleged to be—no. Then there are 1400 of them which are alleged to be operated by independent service station operators under written painting and sales agreements.

The same reference is contained in greater detail in paragraphs 17, 18, and 19.

The court also, by an examination of those paragraphs, will see that there is no allegation with respect to any service station as of any nature whatsoever other than those which are referred to as being operated under either one, written lease agreements with the defendant, or two, written sales contracts with the defendant. The only service station operators or dealers who are covered by the complaint are those who are operating under some sort of a written agreement, either a lease or a sales contract, which latter in some cases is alleged to be accompanied by a painting agreement.

The issues have been joined by the complaint in that fashion. Any extension of those other accounts where there is no agreement, oral or written, would completely change [fol. 1205] the scope or nature of this lawsuit.

I think the Standard Oil case to which counsel referred in his opening argument was—I think this will reveal the basis of the separate issues. In the Standard Oil Company case we had a fairly circumscribed issue, I think. We had the factual situation of exclusive dealing contracts. We had written contracts, all of which were exclusive dealing. There were also oral agreements which were also exclusive dealing, and there was an acknowledgment of an independent businessman relationship. And the question was: Was there a violation of the Sherman or Clayton Acts, and the question of effect, and, of course, it is unnecessary to labor the point before this court.

This case differs under the present pleadings in this respect: We have two types of service stations, into one of which we deny independence, and those are the L-O stations. The others we admit they are independent businessmen. So far as the independent businessmen stations are concerned, those are the 337 stations, those are the 3-C stations, and as to those we admit that they are independent businessmen and we deny any exclusive dealing, written or oral. But those two types of stations are defined in the complaint as being stations where there are written agreements.

As to the L-O stations we acknowledge the direction of

the type of product that is sold in there and say that we are [fol. 1206] entitled so to do under the antitrust laws.

Now, bringing in a third issue into this case, and that is to say, the issue with respect to uncontracted stations, adds an issue that was not present either in the Standard case nor is it presently present under these issues as framed by this complaint in this case. And that is the question of the concept of selection of customers and refusal to sell. This is a matter of spot sales, without contract, deliveries to a station without any contract whatsoever. And I submit to the court that at this stage of the case, some four years after the complaint was filed and after the position of the defendant in the answers to interrogatories for a period of two years, that these matters were not covered by the complaint, during which time the Government has not elected to amend its complaint or come to the court and say we want to broaden the issues, it is too late at this time for the Government to do so.

The Court: All right, I will hear from the Government.

Mr. Dixon: The complaint, your Honor, we believe adequately covers this type of an outlet in paragraph 16, where it is charged that the defendants have entered into arrangements and is operating under contracts consisting of written and oral agreements and understandings hereinafter described between itself and independent service station operators.

In other words, this complaint previously is dealing with [fol. 1207] a market which is represented by the retail outlet regardless of whatever classification it might be placed in by the defendant for its particular purposes.

The Government does not concede that there is any difference insofar as the L-O type of arrangement, the 3-C, and 337 type of arrangement is concerned as far as the charges made in the complaint that is before this court is concerned. And that, therefore, any type of outlet which is a retail outlet which is being supplied by the defendant with petroleum products and automotive accessories comes properly within the scope of the outlet on which the restraints are alleged to apply in the complaint.

There has been no surprise here on the part of the defendant at all, I submit, concerning this matter. They knew for some time that the Government was going to

bring this type of outlet in along with all the others that are previously referred to by your Honor. And I do not think that there is any ground for claiming surprise. Certainly they come within the broad scope of the charges made in this complaint, because this complaint does not deal with L-O outlets or any other particular type. It deals with retail outlets and restraints which the Government claims are imposed upon the independent businessmen operators of those outlets by the contracts and understandings—and I emphasize that latter word—many of which are oral, as the evidence already shows, between Richfield and those [fol. 1208] operators, which we submit violate the Sherman and the Clayton Acts.

Now, with reference to the Standard case, your Honor recalls that there were a large number of outlets of that type that were directly involved in the Standard case. There were no written contracts of any kind with those outlets. They were retail outlets of the same type as Richfield has in this case and with whom it is doing business with the operators of such outlets.

The Court: All right. Mr. Paradise.

Mr. Paradise: With respect to the last statement, if the court please, I would like to quote from the Supreme Court's decision, which states in discussing the type of the transaction there involved—I am reading from page 296 of the Supreme Court Edition——

> "It was also found that independent dealers had entered into 742 oral contracts by which they agreed to sell only Standard gasoline."

As Mr. King has testified, there are no oral contracts.

Now, with respect to Mr. Dixon's suggestion that this complaint is a free charter for the Government to charge any sort of antitrust complaint that it elects, I submit that that is not true under the rules of procedure of this court. [fol. 1209] There is no allegation in this complaint, search it from whatever direction you will, of a charge of restraint on a particular type of outlet, regardless of the nature of the contract.

This complaint charges restraints with respect to two types of service stations: one, where there is a written lease; and, two, where there is a written sales contract,

plus in some instances a written painting agreement. In each of those cases the complaint alleges that the written contract itself has been supplemented and modified by a supplementary oral agreement.

There is no reference in the complaint, no charge whatsoever, no allegation, of sales with respect to stations with which there is no contract of any sort, written or oral.

Now, I admit frankly Mr. Dixon's statement that this is not a matter of surprise, that we have discussed it with the government for a period of two years, and had the government intended to enlarge the issues of this case to include this type of station, it was perfectly free to come into court to amend its pleadings and enlarge the issues.

But this substantially changes the issues of the case. It is no longer one of whether a particular contract is an exclusive dealing contract. Then we get to the very different antitrust concepts of selection of customers, as is per- [fol. 1210] mitted under the Robinson-Patman Act, and the problem of refusal to deal, and the problem of attempted monopoly. And there is no charge of attempted monopoly. All of those problems will be injected into this case which are not presently present.

The Court: All right. Gentlemen, I am at a disadvantage in this case because the case was not pending before me during this entire period, and I want the record to show that I had nothing to do with this case in its preliminary phases.

Will you please sit down?

Mr. Dixon: I am sorry, Judge.

The Court: I didn't know whether you were through. If you want to say something else——

Mr. Dixon: No.

The Court: ——before I rule, you may do so. I am ready to rule. If you want to add anything, I will be glad to have you do it.

Mr. Dixon: No.

The Court: Now, where was I when I was interrupted?

(The record was read.)

The Court: In fact, the case was only transferred in due course through the calendar, I think, early this year, either in January or February. It was sent back to the calendar

early this year, and after going to several calendars, and [fol. 1211] being sent back again under the rule which allows any judge before whom a case is pending to send it back to the calendar for reassignment, it finally came to rest in my department, and I told you gentlemen it was going to rest here. And here it is. I said to you, "You are going to try it." What I say should not be taken as a criticism either of counsel or of the judge who handled the preliminaries. One of the problems which confronts us—you may get down, Mr. King, because I am going to talk a little while. I haven't said very much up to now, and I am going to do a little talking, so you may as well sit in the audience.

The Witness: Thank you, sir.

The Court: One of the problems that confronts us in this case, and one of the problems to be given a good deal of thought, is the problem of crystal-izing the issues. It is a problem which confronts us in these cases more than others, because of the desire of both sides to keep the issues in what they call a fluid condition. Now, I am a very strong believer in notice, pleading, and fluidity, but I have insisted at all times that there ought to be a stage in the litigation where the issues have become crystal-ized, and where we know what we are to litigate, and that stage is reached when the trial of the case actually begins.

In fact, in some of these cases you have had three, four [fol. 1212] or five pretrial orders and the question has been raised in discussions. Now, gentlemen, when I am referring to these discussions, you understand that I am referring to the discussions in which I participated in the last two years as a member of the committee appointed by the Chief Justice to investigate these procedures and to devise some method that could be used as a guide by judges in the trial of these cases. The Chief Justice chose four judges of the Courts of Appeal and six District judges, every one of whom had had experience in the trial of antitrust cases, especially.

In the conferences we have had we have met not only with representatives of the government, but in the conference we had in New York we had in representatives of all the large firms who had represented defendants in antitrust cases, including the men representing the defendants in some of the cases pending throughout the country. We had,

as I told you, representatives of the firm which is defending the Bankers in this Investment Bankers case. We even had in both sides in the famous suit against the Ford Company, the private antitrust litigation. We had both the attorney for the plaintiff and the attorney for the defendant. As I told you, our committee met, and by a fortuitous circumstance I happened to be in New York and I heard of the meeting there, and Judge Prettyman hinted to the com- [fol. 1213] mittee that I was there, and they very graciously invited me to participate in their deliberations on the matter.

Now, one of the problems in which we were all concerned was this: that despite this desire for fluidity—I don't know who put that "fluid" word in there, but there it is, and it was in the discussions—the idea of keeping the issues fluid, there ought to be a stage where, to use the language of the street, we jell them, and we say, "As of today, this is the issue we are going to try." If you do not do that, then you never reach a stage where you actually are certain of what you are going to try.

Now, there is disagreement among lawyers and among judges as to when that stage is reached. The younger judges—I mean younger not in age, but in experience—would like to keep the thing fluid all the time, but the older judges feel that it does not work for economy of time to delay too long what we have called the clarification of issues.

Now, the object of the new pleadings is to substitute a fluid system, whereby the issues are not frozen by the pleadings, but that the actual issues are determined through the various methods of pretrial and discovery, which are provided in the new rules. And I am a great admirer of the new rules. I am opposed to all those, including some men on this bench, who want to return to the old system, where [fol. 1214] you have to state a cause of action in the complaint or go out of the window. I have been a student of pleading all my life, and I think we have departed from that old system, and, under my theory, I say you are entitled to recover or you ought to recover regardless of whether you have it tied down to a particular legal theory. In other words, using an old expression I used in an article I wrote over 20 years ago for the New York Law Review, in which I said: The litigants should not be thrown out of the Temple of Justice, scourged with costs, merely because

they entered through one door rather than another door. They ought to be thrown out because they had no business in there in the first place.

So that I believe that a lot of liberality should be allowed in framing issues, but I believe when we have reached the trial stage, then we ought to make an inquiry and ask whether the issues have been clarified to such an extent by pretrial procedure, or other procedure, or by the pleadings themselves in the absence of pretrial procedure, that there should be no deviation from that pattern.

Now, there is one other matter I want to refer to in a very ordinary rule of pleading. Indeed, it is especially applicable in California, because we are more liberal here than in many other states, and that is this: If in the same pleading you have a general statement, and you do not [fol. 1215] clarify the statement, then anything that would be covered by the general language would be admissible in evidence, under that pleading. But when you have chosen yourself to particularize, then the particularization is the measure of your general statement. Not to get professorial —sometimes a lawyer will accuse me of getting back to one of my other occupations, that of teaching, but ultimately you have to indulge in exposition in order to clarify your own thoughts—we have a rule in California, for instance, which the government has taken advantage of repeatedly in a large number of condemnation cases, and in other cases, where it showed ownership of property by a statement that, "John Smith is the owner entitled to possession of the property," which is a statement of the ultimate fact.

This is one of the few states in the Union which allows that. However, our Supreme Court has said that if you content yourself with that, then no demurrer to your complaint will lie, and you are not limited to any particular way of proving your ownership. But if, after such allegation, you go on and particularize and set forth a title, that by mean conveyance from the Contessa de Santa Cruz you got it, because she was a faithful Contessa and the lands were claimed by the early settlers on behalf of the King of Spain, then your allegation does not rise above that particularization. I refer to the Contessa de Santa Cruz, because we [fol. 1216] happened to have had a case in this court involving the Contessa de Santa Cruz in a fight over the old Domin-

guez Estate, but that principle applies to not only that type of allegation, but to other allegations.

You can particularize in a pleading, and unless a bill of particulars is asked for, you are free at the time of trial to offer any evidence that comes under it. But when you have particularized, either in your pleadings or in a bill of particulars, then you cannot be heard at the trial to say that the pleadings are still fluid and that we ought not to be tied down to a definition of the issues.

Now, this complaint has particularized the issues. It is true that paragraph 16, which is a general allegation, contains general words, but not only in the paragraph which precedes it, but in the paragraph which follows it, the government particularized as to the particular stations they are going to concern themselves with, and they did that in 1947.

Mr. Paradise has referred to paragraph 12. In that paragraph which sets forth the nature of the trade and commerce, the government gave notice to the defendant as to what it is going to contend. *The government gave notice to the defendant as to what it was going to contend.* It specified it is going to contend that:

> "Defendant Richfield owns and operates approxi- [fol. 1217] mately 230 bulk plants from which it distributes its petroleum products to approximately 2,600 retail service stations located throughout the States of California, Oregon, Washington, Texas, Nevada and Idaho." Then it starts to particularize by saying: "All of said 2,600 service stations are operated by independent service station operators under written leases or painting and sales agreement with defendant." Then it further particularizes, "Approximately 1,200 of said service stations are leased to the operators thereof by the defendant under lease agreements under which possession of and the right to operate each service station is given to the lessee-operator" and 1,200 others are owned by the defendant, and some of them are leased by the defendant from the owners thereof, including some of the operators. "In addition to the aforesaid 1,200 service stations, approximately 1,400 service stations are operated by independent

service station operators under painting and sales agreements entered into between defendant and said operators."

Then it specifies the nature of the painting agreement. [fol. 1218] I am not going to read the entire agreement. It ends up by saying:

"The independent operators of these 1,400 service stations usually own the service stations themselves, or lease the same from the owner thereof."

Then the method of distribution is described. Then when we come to the offense charged, the government states in paragraph 16, and I am going to read it in full, and I am going to show how the government ties in paragraphs 17 and 18 to the things it claims it is going to cover by paragraph 16, and it is too late now to come in and bring in outlets other than those which they themselves specify, and as to which the issues should be directed.

"Beginning sometime prior to 1939 and continuing thereafter up to and including the date of the filing of this Complaint, defendant Richfield has violated and is now violating Section I of the Act of Congress of July 2, 1890, as amended, commonly known as the Sherman Act, and Section 3 of the Act of Congress of October 15, 1914, as amended, commonly known as the Clayton Act, in that it has executed, entered into and is operating under contracts, consisting of written and oral agreements and understandings, hereinafter de- [fol. 1219] scribed,"—"hereinafter described," remember that is the phrase you use—"between itself and independent service station operators, which contracts are in unreasonable restraint of, and substantially lessen competition in, interstate trade and commerce in petroleum products and automotive accessories products."

Now, if that had been the only paragraph, and the words "hereinafter described" had been omitted, that would have been a sufficient pleading under the statute, but the defendant would have been entitled to a bill of particulars, and

the bill of particulars could have requested, and the court would have granted it, I am quite certain Judge Hall would have granted it, because Judge Hall is a believer in the old system of pleading. As a matter of fact, he thinks a pleading should state a cause of action, and that is probably known. In fact, he is sponsoring a resolution before the judges to abandon the present system of pleading and to put a provision in the rules that the complaint should state a cause of action and do away with the expression "to state a claim."

I am not saying that by way of criticism. In fact, we were office associates before either of us became judges, so I know his attitude.

[fol. 1220] So I am quite certain that if that had been asked, if the defendant would have asked for a bill of particulars in that respect, it would have been granted.

However, the government was very obliging, and in paragraph 17 they picked up the previous paragraphs. They picked up paragraph 12, and once more told us that what we are talking about are the things we talked about in paragraph 12.

[fol. 1221] This "general" does not mean "and et cetera," that we are going to put in something else that we may find out by discovery.

They go on and then in paragraph 17 this is what they say:

> "The written agreements entered into by defendant Richfield with independent service station operators, which are in full force and effect, are known as 'service station leases,' 'sales contracts' and 'painting agreements,' referred to in paragraph 12 herein. These written agreements have been modified and supplemented by oral contracts, agreements and understandings between the defendant and the independent service station operators which specify and restrict brands of petroleum products and automotive accessories that may be used by, sold at, or distributed through approximately 2,600 said service stations located in the States of California, Oregon, Washington, Nevada, Idaho and Arizona."

Then they describe those. Then again, in paragraph 19:

> "The defendant has entered into a written painting agreement and a written sales agreement as described in paragraph 12 hereof with each of approximately 1,400 independent service station operators in the States named in paragraph 17 hereof."

Then, again, follows 17 lines of description and that [fol. 1222] is where the Government, if it intended to say "and there are other agreements, other outlets not covered by any written agreements or supplemental agreements which operate in this manner," should have said so.

The Government did not do it. Instead of that, it follows then an enumeration of the data upon which their conclusion is based. Then they again talk about sponsored products and they talk about service station leases and contracts. Again they refer to paragraphs 18 and 19 and 2600 stations.

In this, the Government itself, by its own pleading, has tied itself and has told the defendant on April 30, 1947 this is what we are going to charge you with, and the defendant accepted that challenge, has gone through with these proceedings with that understanding, and at the present time I will not allow the Government to broaden the issues and to introduce contracts relating to the type of agreements they do not cover.

The Government cannot claim it did not have any notice, because it had notice. As a matter of fact I convened the grand jury for them and they asked, through Judge McCormick, to start an investigation. They did not know what would come out of it. I assume that many of the facts here developed came out as a part of the investigation which they conducted before the grand jury.

I do not wish to be understood as criticizing the Govern- [fol. 1223] ment for saying that the grand jury was established as a subterfuge, because we realize that when you have a grand jury the subpoena powers are much greater than the ordinary subpoena power, and it is perfectly legitimate for the Government to use the subpoena powers to secure information before they determine what kind of violations exist and whether they are going to result in criminal

investigation or not. I am merely referring to a fact that I happen to know about.

So, to sum up what I was going to say, there ought to be a stage in the proceedings. There has been no pre-trial order and there have been all sorts of proceedings through interrogatories and the like, and I believe that at the present time the Government should be confined to the particularization which they themselves have set out as the basis for their complaint.

So that the objection to the particular question will be sustained. I made this elaborate statement so that the record would be intelligible. I dislike offers of proof. I do not think they are proper or necessary. We do not like them in California and the Supreme Court of California has rejected them. I have always said that the question should be broad enough to indicate the scope of the testimony so that the court may know what it is ruling on without an offer of proof in the record.

So I have indicated that I believe any testimony as to [fol. 1224] non-contractural outlets is beyond the issues as they are defined at the present time. And I will not allow at this stage an amendment of the pleading to produce them, because if we do that, we have an entire new issue and have to start pleading all over again. So, for the present, we limit ourselves to the issues as defined.

And, with that observation, we will take our usual recess until 2:00 o'clock.

(Whereupon a recess was taken until 2:00 o'clock p.m. of the same day, Wednesday, May 9, 1951.)

[fol. 1225] Los Angeles, California, Wednesday, May 9, 1951. 2:00 P.M.

The Court: All right, gentlemen:

Mr. Dixon: Mr. King, would you resume the stand?

The Court: Our star witness.

W. G. KING, JR., called as a witness by the plaintiff under Rule 43(b), having been previously sworn, resumed the stand and testified further as follows:

Direct Examination (Continued)

By Mr. Dixon:

Q. Mr. King, with reference to the TBA items which are——

The Court: Have the initials "TBA" been explained for the record, as to what they signify?

Mr. Dixon: I don't know that they have.

The Court: I do not think they have.

Mr. Dixon: It may shorten the questions and answers of all witnesses if it may be stipulated that those initials refer to tires, batteries, and other automotive accessories.

The Court: That is right. It is the same term, as used in the industry, that we used in the other case, but I do not think the record here has spelled it out so far.

[fol. 1226] By Mr. Dixon:

Q. In reference to the TBA items which are handled by Richfield, as I understand it, there is no written arrangement concerning the handling of those items by the distributors of Richfield?

A. There is no written agreement.

Q. Is there any written arrangement with the operators of the three types of outlets that we have previously described and referred to in writing with reference to the handling of TBA items?

Mr. Paradise: May I suggest that the question is compound, and request that it be asked separately with respect to the different stations, the different categories.

The Court: It is a preliminary question. If it is answered in the affirmative, then it does not need to be split. If it is answered in the negative, then it may be split. Go ahead and answer it, if you can.

The Witness: Will you repeat the question, please?

(The question was read.)

The Witness: There is no written agreement with any of these operators. However, as I have mentioned heretofore, they are instructed as to the TBA items that they can sell to Richfield's credit card customers.

By Mr. Dixon:

Q. Now, I believe Mr. Dinkins was your supervisor, is that correct?

I mean, he was your predecessor—pardon me—rather [fol. 1227] than supervisor?

A. Yes, sir.

Q. He was in charge of the marketing of petroleum products and automotive or TBA items by Richfield, while he was in the position of vice-president in charge of sales, was he not?

A. Yes, sir.

Q. At that time, that is, at the time Mr. Dinkins was vice-president in charge of sales, you testified, I believe, you were general manager of marketing under the direct supervision of Mr. Dinkins?

A. At one time I was assistant general manager, under the supervision, and prior to that division manager, yes, sir.

Q. What position did you occupy in 1947, do you recall, with Richfield?

A. Assistant general manager.

Q. Now, do you recall any particular instructions that you received from Mr. Dinkins during the early part of 1947 with reference to the sale and distribution of TBA items to the retail outlets by the distributors of Richfield, that is, the retail outlets that we have before referred to?

A. Well, I don't—you would have to be more specific, Mr. Dixon. Naturally, during the period there were many, many instructions issued.

Q. Well, did you get any instructions about making cer- [fol. 1228] tain that the operators of such outlets were 100 per cent, shall we say, on the TBA items handled by Richfield?

A. I recall instructions from time to time emphasizing the necessity of having the operators of our L-O stations handle the complete line of authorized TBA items, and I

recall instructions to the effect that the dealers handling our products on other contracts were to be instructed as to what items they could charge under our credit card procedure.

[fol. 1229] Q. And do you recall any specific instructions received from Mr. Dinkins in February of 1947 concerning the TBA items sold or distributed to the outlets that we have heretofore referred to?

A. Well, as I say, Mr. Dixon, you would have to be—there were numerous instructions and I just would not know what you would refer to.

Q. At the time the 3-C outlet dealer was signed up what instructions, if any, were given him at that time with reference to TBA products?

A. At the time our representative negotiates a 3-C contract with a dealer, insofar as the TBA items are concerned he is told what items, what items of TBA are on Richfield's approved list and are eligible to be charged under our credit card system. Naturally, in soliciting the business of dealers we emphasize the vast number of people who hold our credit cards, and that is one means to interest the dealer in handling our petroleum products. But he receives no other instructions from our representative other than as to those items which he can rightfully charge to Richfield to a credit card customer.

Q. There are some instructions given to the operators of the other types of outlets that we have previously referred to by the Richfield Company?

A. The instructions that I have just reviewed for you [fol. 1230] are given to the dealer under contract 337 in addition to the 3-C which we have just covered. Likewise, he——

Q. Are all——

The Court: Just a minute. Let him finish.

A. Likewise, the operators of our L-O stations are instructed as to which items of TBA merchandise they can charge on Richfield credit cards.

By Mr. Dixon:

Q. Are the dealers of all of the three types of stations given a list of the recommended or sponsored Richfield

TBA items at the time they enter into those arrangements with Richfield?

A. I do not know that the list is given to them at the time the arrangements are made, but I do believe that a summary of the approved items has been circulated to these dealers. After all, we do not want our credit used to sell the products of, we will say, competitors or in which we are not interested.

Q. As to the L-O type of station, I presume you would not have, then, any objection to the dealer operating that station to buy products competitive to those sponsored by Richfield if he could buy them at a cheaper price, would you?

A. We instruct the operators of our L-O stations to handle a representative inventory of these approved items so that our credit card customers can get the complete service. Now, we hope that he will confine his purchases to those items, but it is not unusual to find the operators of [fol. 1231] these L-O stations handling many other items that are not on our approved list or, in some cases, that are competitive to our approved list.

The Court: Does that apply to things which are in supply, that you have in supply, or does that apply merely as a substitute when your regional office does not have it?

The Witness: No, your Honor, it would not be confined to that. I have known and I have observed our operators handling, in addition to our approved items, other items that might be competitive to those items.

The Court: Do you have any method of policing the handlers in any of these three groups to see whether they carry their full quota or whether they supply part of them from your list and others from competitors' lists?

The Witness: Your Honor, in the case of our L-O stations, as I have pointed out, we direct the operator as to how we want the station operated. Among other matters, the instructions are those pertaining to his handling a representative or a balanced inventory, we will call it, of TBA items.

The Court: And as to the others, merely a hope and wish or what?

The Witness: I think you have pretty well expressed it.

As to the other types of dealers we do not, would not and cannot exercise any such prerogative, and we just hope that they will buy our products.

[fol. 1232] The Court: Whether you can or do not, do you assume to?

The Witness: No, sir. we do not. We do not take any direction over the operation of their stations.

The Court: All right.

By Mr. Dixon:

Q. What instructions, if any, have you given your distributors of TBA products with reference to advising the operators of the other types of outlets, namely, the 3-C and the 337 type of outlet, to that effect?

A. The TBA distributors function entirely on their own in the sale of TBA items, and they are privileged to sell any 337 or 3-C dealer any item, TBA item, that they can deliver. In the case of our L-O stations we prefer that the TBA distributor sell our operators our approved items, but insofar as the other two types of stations are concerned that is a matter entirely and strictly between the TBA distributor and that dealer.

Q. And have you ever so advised the TBA distributor or any TBA distributor of Richfield to that effect, Mr. King?

A. I do not recall any instructions one way or the other. I think that is just a matter that is taken for granted. He is a distributor of TBA products and he is out to develop all the business he can, and in fact sells many stations that——

[fol. 1233] Mr. Dixon: Just a moment, Mr. King.

The Court: Go ahead.

The Witness: And, in fact, sales, to my knowledge, to many stations that do not even handle Richfield Petroleum products.

By Mr. Dixon:

Q. Yes, I understand that, but that wasn't my question, Mr. King. I take it from your answer that you have never given any instructions to the effect that they are permitted to do that, to either the distributors or to the operators or dealers in the 3-C or the 337 type of arrangement?

A. While I can't recall any specific instructions, I can say that no restrictions have been placed upon the sale of their merchandise,—I am speaking of the TBA distributor.

Mr. Dixon: The government offers in evidence what has been marked for identification Exhibit No. 7.
Mr. Paradise: May we see it, please?

(The document was handed to counsel.)

Mr. Dixon: I take it, there is no objection.
The Court: All right.
The Clerk: Exhibit 7 in evidence.

(The document referred to was marked Plaintiff's Exhibit 7, and was received in evidence.)

By Mr. Dixon:

Q. I will hand you Government's Exhibit No. 7, Mr. King, and ask you if you will state to the court what that is.
[fol. 1234] A. This Exhibit No. 7 is entitled, "Richfield TBA Distributor's Monthly Report," under date of 2-45, and this is a report made by the distributor, the TBA distributor, to Richfield, in which he totals his sales of various TBA items to the dealers or L-O operators handling Richfield petroleum products.

Q. I don't see anything on that form which says "dealer" or "L-O operator." Do you find anything to distinguish on that form between the two?
A. No.

Q. I do notice a place for the name and address and station number. What does that refer to?
A. Well, a study of any of these records over recent years or since they have been used will show that the names of all of the distributor's accounts are listed.

Q. So that on that form, Government's Exhibit 7, there is a place for the distributor to report to the company on the sales made by the distributor to any one of the three types of outlets that we have previously discussed; isn't that a fact?
A. Would you repeat that question, please?

(The question was read.)

A. Yes, sir.

Q. It is a fact, is it not, that on that type of report form, [fol. 1235] Government's Exhibit No. 7, that you do receive a report on the TBA sales made to the various types of dealers of Richfield petroleum products?

A. Yes, we receive this report.

Q. And that it contains that information?

A. It contains the information of the distributor's sales to dealers.

Q. By "dealers," you mean any one of the operators or any one of the three types of outlets, don't you?

A. Yes, sir.

Mr. Dixon: Will you mark this, for identification, as Government's Exhibit 8?

The Clerk: 8, for identification.

(The document referred to was marked Plaintiff's Exhibit 8, for identification.)

By Mr. Dixon:

Q. By the way, Mr. King, can you tell us who Mr. Carr is, Mr. A. C. Carr?

A. Mr. Carr is presently the manager of the Southern Division.

Q. Was he holding that position in February of 1947?

A. Yes, sir.

Q. And who is Mr. H. T. Hutchinson?

A. Mr. H. T. Hutchinson?

Q. Yes.

A. At present he is my assistant.

[fol. 1236] Q. What position was he holding in February, 1947?

A. He was the manager of our central division.

Q. And who is Mr. E. Kirby?

A. He is presently the manager of our Northern Division.

Q. What position was he holding in February of 1947?

A. The same.

Q. And Mr. G. B. Tanner?

A. G. B. Tanner?

Q. Right.

A. He was a former employee of ours.

Q. What position did he hold in February, 1947?

A. If I recall correctly, he was TBA assistant or supervisor, as we might call it, in the home office.

Q. You mean he was in charge of the over-all supervision of the TBA operation of Richfield——

A. Only——

Q. ——under your supervision, of course?

A. Only at the home office level. He had no contact with the field, or the customers in the field.

Mr. Dixon: The government offers Exhibit 8 in evidence.

Mr. Paradise: Mr. Dixon, will you withhold your offer until I have read the copy, as you suggested that I do?

I might state, your Honor, the reason we are not familiar with this is, in response to the government's subpoena, we [fol. 1237] brought up three filing cabinets of material, none of which we had the opportunity to examine, and we gave the government access to them.

The Court: All right.

By Mr. Dixon:

Q. By the way, will you also tell the court who is Mr. G. R. Miller, Mr. King?

A. G. R. Miller is the manager of our merchandising department, home office.

Q. Did he hold that position in February of 1947?

A. Yes, sir.

Mr. Paradise: No objection to the government's offer.

The Court: It may be received as Exhibit 8.

(The document, heretofore marked for identification as Government's Exhibit 8, was received in evidence.)

By Mr. Dixon:

Q. Mr. King, do you know what is meant by "split pump" in the industry? It has been a long time, I know, since that term may have been used.

A. If your question is directed, do I know what a split pump station is, the answer is "Yes." It is a station that has so many pumps handling numbers of brands of gasoline.

Q. In other words, a split pump is a pump that handles

petroleum products or gasoline from sources other than one supplier?

[fol. 1238] A. A split pump—that is my definition of a split pump station, yes, sir.

Q. Did Richfield supply any so-called split pump stations with petroleum products back in 1938 when you were with the company, to your knowledge?

A. Yes. I recall that we had a small number of accounts, split pump accounts.

Q. Does Richfield supply any split pump retail outlets or stations with petroleum products at the present time?

Mr. Paradise: I object to the question for lack of foundation, if the court please. I thought we established this morning that there is in issue here the problem of Richfield's transactions with dealers under particular types of contracts. I think the witness' direction should be called to the particular type of station and the particular type of written contract to which counsel is directing his attention.

Mr. Dixon: If counsel will stipulate that all of the stations or outlets covered were supplied 100 per cent by Richfield, I will withdraw my question.

Mr. Paradise: I could not stipulate to such a thing, Mr. Dixon.

Mr. Dixon: Then I ask the question be answered.

The Court: Read the question.

[fol. 1239] (The question was read.)

The Court: The objection is overruled. I don't think this is consistent with the ruling I made this morning. I want to explain that what I meant by the ruling is that the question of violation of law in regard to those stations is not in issue. But that does not mean that an incidental question may not be asked relating to what may throw light on the types of contracts. I did not mean to freeze the topic so that any inquiry that might relate to another problem would have to be eliminated. I merely sustained your objection by saying I am not interested in any question of violations as to those stations because of the issues as I interpreted them.

[fol. 1240] Mr. Paradise: It appeared to me that your Honor's ruling was such that the stations pertaining to stations other than those that we are now concerned with

would be immaterial because they may be beyond the issues.

The Court: Of course, that is true, but such an inquiry ancillary to that inquiry may relate to a policy that applies to the three types of stations we are concerned with, although the particular inquiry apparently relates to the type of a station excluded from the consideration of the main case. I do not want to be arbitrary and just draw a curtain across or around, whatever you call it, around that topic because, after all, this is a court of equity and rules of evidence are not to be so strictly limited as to prohibit the inquiry into matters that are collateral but may shed some light on the others. Go ahead.

The Witness: Read the question, please.

The Court: Read the question.

(Question read by the reporter.)

A. I do not know of any stations at the moment that are handling our gasolines as well as, in addition, gasolines of some other supplier.

By Mr. Dixon:

Q. You were, I believe, Mr. King, divisional manager for the southern district of Richfield in 1938, were you?

A. Yes, sir.

[fol. 1241] Q. Do you know whether there were any split pumps, as we have used that term, in your division that were being served by Richfield at that time?

A. If I can correctly recall, I think that we were serving some split pump stations in 1937 or 1938.

Q. It is a fact, is it not, Mr. King, that Richfield has not supplied petroleum products to any split pump in any of the three types of outlets that we have referred to since 1938?

A. That is a difficult question to ask, as my memory—a long period of time.

The Court: Well, if you can't, just say so. If you can, answer it.

The Witness: I do not believe I can answer that question authoritatively.

By Mr. Dixon:

Q. Well, do you know of any of that kind?

A. I can't readily recall any, no.

Q. It is a fact, is it not, that around June of 1938, when you were supervisor in charge of the southern district, that you were advised that it would be the policy of Richfield from that time on not to serve any such outlets which had split pumps? Isn't that a fact?

A. Somewhere around or near those years, 1937 or 1938, I do recall that there were instructions along those lines, but I can't recall the exact instructions at the moment.

[fol. 1242] Q. But, as vice-president in charge of marketing you know as a fact, do you not, Mr. King, that that is the policy of Richfield at the present time?

A. Now, I am going to ask you to be a little more explicit, Mr. Dixon.

Mr. Dixon: Do you understand my question?

The Witness: Well, you might restate it, if you please.

Mr. Dixon: I will ask that it be reread.

(Question read by the reporter.)

Mr. Dixon: Do you understand my question, Mr. King?

The Witness: Are you referring to our sale of gasoline to split pump stations or——

Mr. Dixon: That is right.

The Court: This question is tied to the other question. In other words, he is asking you if it is not a fact that your policy is not to supply split pump stations. Didn't I interpret your question correctly?

Mr. Dixon: You did, Judge, yes.

The Court: I did not mean to mislead.

Mr. Dixon: That is correct.

A. It is our experience——

Mr. Dixon: If the court please——

The Court: No. Wait a minute. No, no. You can answer that and give a reason. I know you probably have a good excuse. If your answer is "yes," you probably have a good [fol. 1243] excuse, which I will let you give. But he is entitled to a specific answer on that.

The Witness: All right. Please read it again, sir.

The Court: Then you can explain why, if it is one way or another.

The Witness: Thank you, sir.

(Question read by the reporter.)

A. We do not solicit the business of split pump stations——

Mr. Dixon: May I have an answer to that, please?
The Witness: I think I have answered it.
Mr. Dixon: I did not get the answer if it was "yes."
The Court: It is not a question of soliciting. The question is: Do you supply them? If your answer is "yes," then you can explain and give your reason.
Mr. Paradise: I do not think the witness understands the question, your Honor. The question is: What is the policy?
The Court: I think he does. I think he is afraid of giving an answer that might tie him to a legal conclusion. That is all right. He is a cautious man and that is all right.
The Witness: The question was?
The Court: If it is the policy?
The Witness: To supply split pump service stations?
The Court: To supply split pumps.

A. It is not our policy to supply or solicit the business of split pump service stations.
[fol. 1244] The Court: That is all right. You get "yes" in. That is all right. Now if you want to add anything, you may. You started to say a while ago: It is our experience. Now I will let you finish.
The Witness: Thank you, your Honor. In explanation of that policy, it is our experience that there is probably not over one or two per cent of all the service stations in operation today that are operated as split pump service stations. We further know from our observance and experience that those stations are probably the least desirable for our business because of, we will say, location, the type and character of their improvements, their buildings, their equipment, and the service that they render. In other words——
The Court: And the type of products they sell, is that it?
The Witness: Well, we are always happy to find good customers, your Honor, but——
The Court: Yes, I mean the goods. In other words, the other things they dispense.
The Witness: In other words, your Honor, it is not busi-

ness that measures up to the standards that we have set for the type of representation that we want for our company.

The Court: It sounds like some of the grounds for restrictive covenants. All right.

Mr. Dixon: Let me ask that this be marked as Govern-
[fol. 1245] ment's 9 for identification, and we offer Government's Exhibit 9 in evidence.

(The document referred to was marked Plaintiff's Exhibit 9 for identification.)

Mr. Paradise: May I object to this offer, if the court please? I would like to have the court see it before he listens to our objection.

Mr. Dixon: Yes. I want the court to see it, too.

The Court: All right.

Mr. Paradise: The objection, your Honor, is not based on relevancy, because I admit that this is relevant to the general background of this matter as a matter of historical interest, the same as Mr. Dixon said yesterday when introducing some old forms before 1941. I think he said at that time when introducing——

The Court: This is June 1948.

Mr. Paradise: No. This is June of 1938, your Honor.

The Court: The recognizance does not show any date at all except the "8."

Mr. Paradise: Can you state, Mr. King, after looking at that whether it is 1938 or 1948?

The Court: His eyesight may be better. Maybe I had better use that big magnifying glass I just gave you. I do not see any date there. How can you tell the date on that? There is no date except the "8" that came through the typewriter.

[fol. 1246] The Witness: No, I can see that you can't. Let me read the letters.

Mr. Paradise: Did you answer the question, Mr. King.

The Witness: Not yet. I am looking.

The Court: He is looking for the date. The letter does not indicate the date.

The Witness: There is no date. That is——

The Court: Just an "8" is all there is.

The Witness: It is impossible to determine whether it should be 1938 or 1948, but from the contents of the letter

and the people it is addressed to, I would date the letter on or about 1938. Certainly it is not '48.

Mr. Paradise: Do you recall that you received that letter when you were in the capacity of a division manager?

The Witness: Yes, I recall receiving this and those are the instructions that I recalled a little while ago to Mr. Dixon that I remembered receiving.

Mr. Paradise: From your capacity, do you recall whether the date was 1938 or 1948?

The Witness: Well, it would be '38, not '48.

The Court: All right.

Mr. Paradise: Your Honor, when Mr. Dixon yesterday offered Government's Exhibits 3, 3-A and 3-D, he said that these are the documents that relate to the 3-C arrangement in existence prior to the war and concerning which we are [fol. 1247] submitting those only as background material. But yet——

The Court: Well, I will so limit it.

Mr. Paradise: But I most sincerely submit that it is relevant but it is not material.

The Court: The question is this: I realize, gentlemen, at times we cover too much ground. I have tried in these cases, both in Government cases and private cases, to draw a line.

During the noon hour I was working on some interrogatories in a private antitrust case which is to follow this one, and in that case, right from the very beginning, I drew a distinct line beyond which I was not going to go, but did it only for the purpose of preliminary. I did not freeze the date absolutely.

So I agree with you that what happened in '38 does not concern us, because I as a chancellor am interested in what is happening today, and whatever decree I render must be effective as of the day it is rendered and relate to conditions. But just because of that, it works sometimes two ways. For instance, in an equity case you can bring up conditions to the time of trial to any amended pleadings. Now, that, of course, is the rule now in all civil cases. But in a case like this, especially at this stage, at times in order to show a continuity of policy it is necessary to go back a little into history. If it were not for that, I would agree with [fol. 1248] you that it may not shed any light, but I can't

tell. That depends. It is only the second day of a case that is going to last several weeks. So, if you want me to reserve the right to strike this at the conclusion of the Government case, I will do so. But, at the present time, I say—not purely as background—but where the Government insists that it is a continuing policy, to go back to the inception of the policy is not objectionable in itself, leaving for the Government to tie it up later on. If they do not tie it up and they do not show any practices since that time, and it negatively or it positively should appear as a fact that that is abandoned, then it will show.

Mr. Paradise: I think your Honor has expressed it better than I could. The matter has not been tied up yet, and we are aware of your Honor's article, "Observations on Anti-trust Procedure," 10 Fed. Rules Decisions 165, where you state the important danger is letting it in evidence without it being tied up.

The Court: That is right. And in that respect my view differs entirely from some of the eastern judges, and that is why some of the men who are trying cases, Mr. Dixon and others, have referred to this article. This article was written at Urbana, Illinois on my way back from my first conference last year, and the reason why they were so surprised I had such good information is that Mr. Dixon opened the [fol. 1249] files to me and gave me a lot of up-to-date data on some of the pending cases.

But I agree that at times too much is left suspended in the air, and as a trial judge of nearly 25 years I try to avoid the general policy of leaving everything in the hope it will be tied up.

We will probably reach a stage when I will say: "Begin tying right now," as I do in criminal cases and mail fraud cases and the like. But you cannot, right at the beginning of a case, draw the lines too strictly lest you do injustice to the inquiry and into the endeavor to discover the policies of today.

So, with that understanding, I will overrule the objection and allow it to be brought in.

Mr. Dixon: I think my next question, your Honor, which I was about to ask as soon as it was admitted, may tie it up.

Q. Handing you Government's Exhibit 9, Mr. King, did you ever receive any written notice from Mr. Dinkins commenting or changing the instructions submitted to you in Government's Exhibit 9?

The Court: At any time since the receipt of that?

Mr. Dixon: At any time since the receipt of that instruction, yes.

A. No. I do not recall that these instructions were ever rescinded. In fact there was no need to. The contents or [fol. 1250] the instructions contained in this letter just became meaningless as time went along.

The Court: All right. Maybe, like the English, they never repeal a law. They just let it die.

The Witness: Well, that is true lots of times, your Honor. But I mean in this case to convey the fact the character of your trade and your business changes and, as time went along, these instructions hold no weight. They did not amount to anything.

The Court: All right.

By Mr. Dixon:

Q. Do you have any particular type of description for the operators of these three different outlets that you use generally, Mr. King?

A. Well, we refer and we use the term "operator" for those individuals operating our leased out service stations, and as far as all other types of dealers are concerned we refer to them as independent dealers.

The Court: The others, the first group, is the group we have been talking about as L-O, leased out?

The Witness: Yes, sir.

The Court: That is the group you refer to?

The Witness: The first group, we refer to the individuals as operators who operate the leased out stations.

The Court: Leased out stations.

The Witness: All other dealers, we refer to them, regard- [fol. 1251] less of the contracts that they are on, as independent dealers.

The Court: Independent. All right.

[fol. 1252] Q. In this advertising of Richfield products, did you make any distinction between advertising for an

L-O operator or dealer, or the operator or dealer who was conducting his business under the 3-C or 337 type of arrangement?

A. No, Mr. Dixon. All of our advertising, whether it be newspapers, billboards, or service station material, giveaways, as we call them, pamphlets, literature, is all distributed equally among all classes of accounts.

Q. Insofar as the public is concerned, in connection with your advertising are all three operators of these outlets referred to as independent Richfield dealers?

Mr. Paradise: Oh, I object to that, if the court please, for lack of foundation.

The Court: So far as he knows. He may answer. It is a general question. Of course, he will have to have his attention called specifically. Go ahead.

The Witness: Would you read the question, please?

(The question was read.)

The Witness: I can't recall that we refer to them all as independent dealers in our advertising which goes on daily over the radio, and so on. We might refer——

The Court: That would cover, you know, those pictures in the newspapers of a man in overalls, middle-aged, and quite nice looking, looks as though he was in the First World [fol. 1253] War, and there you say, "This is the type of man who serves you."

The Witness: We refer to them as "Richfield dealers," your Honor, in all of our advertising.

By Mr. Dixon:

Q. So that in your advertising——

The Court: You know, I see a lot of advertisements.

By Mr. Dixon:

Q. So then I take it, Mr. King, Richfield does not conduct an advertising program just for the benefit of one type of dealer among the three types that we have referred to; is that correct?

A. That is correct. Our advertising is intended for all of these operators and dealers.

Q. And in referring to——

The Court: Well, you have an interest in all three types, and, therefore, you do not distinguish, regardless of any legal distinction, between the type of relationship as between you and these three in your advertising, and you treat them all alike.

The Witness: Well, we would be very foolish, your Honor, if we didn't.

The Court: And you give them the benefit of whatever good will you are creating through your advertising?

The Witness: That is exactly right. For example, we give away wildflower booklets, maps, wildflower seeds, and Christmas Carol booklets, and those are given freely to all [fol. 1254] our dealers, regardless of the contractual arrangements or connections.

The Court: And those wildflower booklets have become an institution in California, so that people look to Richfield stations to find out when the wildflowers will be in bloom in certain parts of the country.

The Witness: I am glad to hear you say that, your Honor, because we feel much the same way.

The Court: All right.

By Mr. Dixon:

Q. Do any one of the operators of any one of these three different types of outlets that you have described receive any salary directly from Richfield?

Mr. Paradise: Objected to as immaterial, if the court please.

The Court: I beg your pardon?

Mr. Paradise: I say I object to that on the ground of materiality. The defendant has not contended any relationship of employment on a salary basis. There is no issue of that sort.

The Court: I don't think that is necessarily so. That is a part of the evidence in determining the relationship. The manner of compensation may have a bearing on it. Overruled.

The Witness: Will you read the question, please?

(The question was read.)

[fol. 1255] The Witness: No, sir.

The Court: Do you guarantee them a minimum of any kind in any form?

The Witness: No, sir. No, your Honor.

By Mr. Dixon:

Q. So that the only source of his income from the outlet in which he works or which he operates is from the sale of the products at that outlet; is that correct?

Mr. Paradise: I don't want to interfere with this examination, if the court please, but I think that the prior question referred to all three outlets.

Mr. Dixon: It did.

Mr. Paradise: And I was going to ask that, in the interests of clarity, the question be separated as to the separate classifications; that is, I think, in all fairness to the witness.

Mr. Dixon: Well, if the court please, I am trying to shorten it. If the answer is "No," he can say so.

The Court: I think it is a preliminary question. If you can answer it, "No," then we will be guided by that.

The Witness: We do not pay a salary to the operators of L-O stations, nor to any independent dealer who purchases our products under contract.

The Court: So far as you know, then, the only source of income is the profit he makes on selling the products in [fol. 1256] the station, whether they are yours or someone else's?

The Witness: Well, your Honor, whether he be an operator or an independent dealer, he has many other sources of income, as you may know, other than the sale of products, whether they be petroleum products of the company or not. He has numerous services that he renders.

The Court: That is right. He may have a repair shop in conjunction——

The Witness: Correct.

The Court ——or may merely do ordinary servicing?

The Witness: There is quite a ramification——

The Court: He may service tires, take them off and put them on, and fix a leak, or something?

The Witness: It is not unusual for many such dealers to earn more from services than they do from the sale of products.

The Court: Than from the sale of products. All right.

By Mr. Dixon:

Q. Does Richfield reserve the right, to your knowledge, to control the physical conduct of any of the operators of any one of the three different types of outlets that we have referred to?

A. Just what do you mean by "physical conduct"?

Q. Tell him when he must come to work, and what he must do while he is working at the station?

A. With respect to—are you finished?

[fol. 1257] Q. If that is enough to indicate what I mean.

A. Yes.

The Court: I think some of the contracts provide the hour when they shall be open, if I remember correctly.

Mr. Dixon: One of the very early ones, but that was removed, your Honor.

The Court: All right.

The Witness: In the case of our leased out stations, yes, we instruct the operator as to his conduct of the station, as to the manner in which the station shall be maintained, and the state of cleanliness, its appearance, and so on.

With respect to all other types of dealers, with respect to the dealers purchasing our products under the 3-C and 337 contracts, we do not exercise any direction over their conduct or station.

The Court: Let me ask you one question in conjunction with that. All of them are required to honor Richfield cards, all three groups?

The Witness: Yes, your Honor. We supply them with all the necessary forms so that they can extend credit.

The Court: If you carry a card?

The Witness: If anyone carries a card, yes, sir.

The Court: Now, as to those, as to the credit extended, you give him credit whether you collect or not? In other [fol. 1258] words, you have the responsibility for loss on the credit he extends on those cards?

The Witness: Yes, we do. If he has honored a card that is currently valid,——

The Court: That is right.

The Witness: ——and if the account is non-collectible, that is Richfield's loss.

The Court: Then as to all others, if he extends credit to others,——

The Witness: Yes.

The Court: ——that is his responsibility?

The Witness: He can extend all the credit he wants to, yes.

The Court: So the only current accounts, the only accounts on which you save him harmless from loss is in case some of those accounts turn sour?

The Witness: That is right.

The Court: I mean the accounts on Richfield cards turn sour?

The Witness: Once he has made a sale on a current or valid Richfield credit card, it is entirely at our risk.

The Court: That is what I mean. The lawyers know what I have in mind. Probably you do not. I don't know whether they do, but I have a special reason for asking questions. Go ahead.

[fol. 1259] By Mr. Dixon:

Q. Does Richfield reserve the right to direct the number, time, or details as to any employee of any operator of any one of the three different types of outlets referred to?

Mr. Paradise: I think that is a question as to a conclusion of law, if the court please.

The Court: No. That does not call for a question of law. It calls for a fact. Go ahead.

The Witness: Would you repeat the question, please?

(The question was read.)

The Witness: In the case of the operator of our leased out stations, he is the only individual that we give instructions to. As to the number of people he employs, or his directions to them, that is entirely up to him.

With respect to the independent dealers, we issue no instructions. The operation of his station is his entirely, any way he sees fit. He can close it up and go fishing, run it at night, or run it at day, or any way he sees fit.

By Mr. Dixon:

Q. But under the 3-C type of deal if he did that you could cancel out his sales contract, couldn't you, and take over the operation of his station?

Mr. Paradise: I submit——

By Mr. Dixon:

Q. Isn't that a fact, Mr. King?

Mr. Paradise: I submit that is improper——

Mr. Dixon: I ask that question, Judge, because the wit-
[fol. 1260] ness went beyond the question.

The Court: I see.

Mr. Paradise: I still submit that is improper examination by the government.

The Court: It calls for a conclusion.

Mr. Dixon: It does, your Honor.

The Court: I sustain the objection to the form, because it calls for a conclusion. However, you might ask him if, as a fact, they have done that in cases where a man should be dilatory, develop bad working habits, and neglect a station, and so on, and so forth. You might ask him if in fact they did that, because ultimately it is not what power they have, it is what they do that represents control or lack of it.

By Mr. Dixon:

Q. Do you know of any situation, Mr. King, in the 3-C type of deal where Richfield Company has canceled its sales contract with the operator of the outlet and taken over the station.

A. I know of no case where we have ever taken over the station that we have sold products through under a 3-C proposition.

The Court: I mean for objectionable methods of business?

The Witness: That is right, your Honor. In other words, the only time——

The Court: I mean an unclean station, or discourtesy, or
[fol. 1261] anything you might be dissatisfied with.

The Witness: Your Honor, the only time that—we have never taken over any such station. We have never taken

over any such station, regardless of what the conduct of the operator was, how he ran it, or how he failed to run it.

The Court: But you have, I assume, admonished a man who developed habits that might reflect upon you indirectly to mend his ways, have you not?

The Witness: Well, it is natural——

The Court: I won't put it that way. I will not say "have you not," because that implies I know what the answer will be. I don't. You know, the most ignorant person when you start a law suit is the judge. He only becomes educated as you go along, that is, as to facts.

The Witness: Yes, sir.

The Court: Therefore, my questions are motivated by a desire to secure information. Sometimes your own attorneys or the attorneys on the other side ask questions because they wish to bring out specific facts. I don't know what those facts are. They probably know, or hope they know.

The Witness: I think I can answer your question in this way, your Honor. We have people—our salesmen are the people who are in contact with the 3-C dealer. He may suggest and recommend to that individual, "Why don't you [fol. 1262] clean up your place of business? Your restrooms are terrible. Why don't you get all that rubbish out of the way? Your competitor gets his out and he has all the business." In other words, sales aids. But he is free to accept them or reject them, and if he rejects them, that is where it stops, right then and there.

The Court: All right.

Mr. Dixon: Have you finished, your Honor?

The Court: Yes, I have finished.

By Mr. Dixon:

Q. Does Richfield pay any social security taxes to the government on any one of the operators of any one of the three different types of outlets?

Mr. Paradise: Objected to on the ground of immateriality.

The Court: Overruled.

The Witness: No, we do not.

By Mr. Dixon:

Q. Does Richfield pay any industrial compensation taxes or insurance or premiums on any operator of any one or all of the types of stations that we have referred to?

Mr. Paradise: The same objection.

The Court: Overruled.

The Witness: No, we do not.

The Court: I think that should be preceded by a question: Does Richfield list with the State Department of California, or in any other *other* states which have a similar proposi-[fol. 1263] tion, any of these operators of these stations as employees as to which compensation insurance applies?

The Witness: No, we do not, your Honor.

Mr. Dixon: Thank you, your Honor.

The Court: You want credit on that, do you?

Mr. Dixon: No, your Honor. You take the credit.

The Court: Young lawyers sometimes say—you are not young—they usually say, "I was going to ask that question." That is true especially if they have as clients women clients. So I always say, "I will give you credit for it in the record."

By Mr. Dixon:

Q. At your Honor's suggestion, I will now ask, Mr. King, whether Richfield lists any of the operators of any one of the three different types of outlets with any of the Unemployment Commissions operating in any of the states in which Richfield operates.

Mr. Paradise: May the objection go to this entire line——

The Court: Overruled.

Mr. Paradise: ——of questions without being repeated?

The Court: Yes. Overruled.

The Witness: Please read that again.

The Court: He is asking the same question I asked you about, and he is talking about Unemployment Commissions.

(The question was read.)

[fol. 1264] The Witness: No, sir.

By Mr. Dixon:

Q. It is a fact, is it not, that Richfield recently approved and adopted a pension program for all Richfield people?

A. Yes, Richfield has a pension program.

Q. Are any of the operators of any of the three types of outlets before described eligible for that pension program of Richfield's?

Mr. Paradise: I object to that on the ground of lack of foundation. If this refers to a written plan which has to do with a description of particular types of persons available within several classifications, I object to the question on the ground of lack of foundation and not the best evidence.

The Court: I think we are just trying to find out whether they are included, not the details of the plan. In other words, you understand that he is asking these questions in order to cover the criteria by which usually the relationship of employer and employee is governed, and he has a right to anticipate your argument by showing that none of the indicia by which you determine the relationship of employer-employee exists in these cases.

Mr. Paradise: I appreciate that, but counsel's questions seem to be deliberately broader than an employer-employee relationship. He referred to a pension plan covering Richfield people.

[fol. 1265] The Court: A pension plan may cover others, that is true, but I will overrule the objection. Some of the companies are supplementing the social security benefits by private pensions, realizing perhaps that social security benefits are insufficient for the present, at least, with the change in valuation of our money, and do not amount to very much. So it is proper to inquire whether the pension plans are made available to certain groups. Overruled.

The Witness: Will you read the question?

(The question was read.)

The Witness: No, sir.

By Mr. Dixon:

Q. Insofar as the operators of all three types of these stations are concerned, they are independent and they are

not recipients of any of the things that you have just previously mentioned, Mr. King; is that correct?

Mr. Paradise: I object.

The Court: No, that is not proper. That is a summation. You don't have to summarize.

Mr. Dixon: All right.

By Mr. Dixon:

Q. Mr. King, do you approve or look over the advertising of the company?

A. Yes, the company's advertising comes under my general supervision.

[fol. 1266] Q. You have had submitted to you, have you, at various times advertising for Richfield in which reference was made to the "independent Richfield dealer"; is that correct?

Mr. Paradise: Objected to as not the best evidence.

The Court: It is a general question along the same lines I asked a while ago, you know, where they show a picture of a very nice middle-aged gentleman with a brush mustache, and say, "He is the kind of man who serves you at Yakima."

The Witness: "Your smiling dealer."

The Court: That is right. All of them do.

I will say one thing for your company. You didn't try your law suit in the newspapers, the way some of the other companies are doing. I have seen recent advertisements that talk about a trial or in anticipation of a trial, and talk about the antitrust laws trying to ruin businessmen. I haven't seen any of that kind by the Richfield Oil Company. I hope there isn't anything in existence. But I have seen some of them by other companies who have pending law suits in this very court. But not in my department, gentlemen, because they would have heard from me if that had happened. We are talking about legitimate advertising. So if you have seen the other kind, why, we are not trying to trap you into admitting that. We are talking about legitimate advertising that you put out about this type of man I referred to.

[fol. 1267] The Witness: In answer to your question, Mr. Dixon, it is quite possible that in past years we may have

used the expression "independent dealer" in some of our advertising, but I can say that is quite a number of years past. It is my firm recollection that in advertising, when we refer to dealers, we refer to them as "Your Richfield dealer."

By Mr. Dixon:

Q. Do you recall any advertising by Richfield in the early part of last year, in the months of February or March, of 1950.

A. Well, we are advertising continually.

Q. The question is preliminary, Mr. King. I appreciate it is rather broad.

Is it a fact, if you know, that on or about February 21, 1950 your advertising carried over the ABC network read as follows, among other things, "Your independent Richfield dealer personally backs every lube job he performs for a full 1,000 miles"?

Mr. Paradise: Objected to.

By Mr. Dixon:

Q. (continuing) And on March 8, 1950 the following was contained in your advertising, "Tell your independent Richfield dealer to drain and refill your car with Richfield premium motor oil."

And on March 9, 1950, the advertising over the ABC network was as follows, "You can get your wildflower [fol. 1268] booklet from your independent Richfield dealer." Now, with reference to the wildflower booklet, Mr. King, did you want the listeners who heard that advertising copy to believe that they could only get it from the 3-C or the 337 type of outlet?

A. The answer to that question——

Mr. Paradise: Objected to as immaterial.

The Court: Overruled.

The Witness: Why, of course not. As I explained previously, we distribute all of that advertising material through all of our dealers and operators, and if the expression "independent dealer" was used there, which probably was done, well, I would say it was just—it was not of

moment to us at the time, because our general reference to our accounts is "Richfield dealers," regardless of what the proposition is.

By Mr. Dixon:

Q. Would you say that——

The Court: The idea, of course, is to impress upon the public that these men have a stake in the business, and they are not merely employees? Isn't that the way it is?

The Witness: I think that is the origin of that idea, yes. I mean——

The Court: They have a stake in the business, and they are not merely employees, and your patrons are helping to build them up. I mean, in these advertisements you are not [fol. 1269] saying that they are helping build up a large company, but they are helping people to lead an honorable life of their own, and that is the idea?

The Witness: I think that is the origin of the approach, which is quite——

The Court: To appeal to the love for the American type of doing business?

The Witness: Which has been quite generally used, and we do feel ourselves that these men are operating on their own.

The Court: All right. Go ahead.

Mr. Dixon: Counsel has agreed, your Honor, that the quotations given——

The Court: You didn't give him a chance to answer. You asked about three quotations, and before he answered you propounded another question, and he answered the last question, but not as to the three quotations remaining, as to whether he remembered the three advertisements. It was all your fault. That is why those three questions were not answered.

Mr. Dixon: You are quite right, your Honor. I intended only to ask one question.

The Court: That was an awfully broad question.

Mr. Dixon: It was.

The Court: It would take a Philadelphia lawyer to answer [fol. 1270] that one correctly. He answered the last one.

He picked you up on the last one. What did you want the witness to do? Let's not read them again.

You heard what he said about referring to dates when these three advertisements were given. Do you have any knowledge of whether those advertisements were contained in the commercials of the company?

The Witness: It could be, your Honor. I don't have any direct knowledge that they were or were not in there, in the broadcast.

Mr. Dixon: I was about to say, your Honor, that counsel have stipulated that they were contained in the advertising broadcasts over the ABC network on the dates specified.

The Court: All right. Let me see. What were they advertising then? What program was it?

Mr. Dixon: The Richfield news program at 10:00 o'clock.

The Court: Oh, the Richfield reporter.

Mr. Dixon: Yes.

The Court: I hear him too. All right.

By Mr. Dixon:

Q. I believe yesterday, Mr. King, you were asked to review the situation concerning certain distributors of TBA products which you said dealt in items competitive to those supplied by Richfield.

The Court: That is a new topic.

Mr. Dixon: Judge, this is my last question.

[fol. 1271] The Court: All right. Go ahead.

By Mr. Dixon:

Q. Did you have an opportunity to go over that, Mr. King, so that you could give us the names of any such distributors at this time?

A. You refer to your question yesterday, Mr. Dixon, about TBA distributors,—were there any—did I have any knowledge of any TBA distributor who handled or distributed or sold competitive tires and tubes? Wasn't that your question?

Q. Yes.

A. Yes, I have some information on that.

Q. Will you give us the names of those distributors, Mr. King, please?

A. The first is Hugh Titegen, Los Angeles.

Q. What is his address, Mr. King, please?

A. I am sorry, I didn't bring it, but we will get that for you in all cases here.

Q. You will give it to us?

A. He has been a TBA distributor since 1946, and, to our best knowledge, we know that in 1946, 1947, 1950 and 1951 he has distributed tires and tubes other than the brand which Richfield sponsors.

[fol. 1272] The Court: By the way, what is the brand of tires of Richfield?

The Witness: Goodyear tires.

The Court: Goodyear tires.

The Witness: And the second is——

By Mr. Dixon:

Q. May I ask when those facts came to your attention, Mr. King?

The Witness: What did you say, sir?

By Mr. Dixon:

Q. May I ask when those facts came to your attention?

A. I am aware of facts like this right along. They did not come to my attention, we will say, yesterday, Mr. Dixon, but in following the conduct of our business and our operations I am familiar with these things.

The Court: You get the information and have crystalized it into this form?

The Witness: I confirmed the information. That is correct, your Honor.

By Mr. Dixon:

Q. In other words, this was not a direct request to you, I take it, from the distributor that you have named to carry those products?

A. Oh, no, not any direct request from me, but knowledge that has come to me, information, that has come to me, through my organization in what is currently going on, and in answer to your question of yesterday, where I said that [fol. 1273] I knew, or in answer to your question——

Mr. Dixon: That is correct.

A. ——I denied, rather, that these distributors had not handled anything other than our sponsored tires.

The Court: All right, let us go on.

A. The second one, George Stearn, Hollywood—we will give you all of the addresses afterwards, Mr. Dixon.

Mr. Dixon: Thank you.

A. ——has been a TBA distributor since 1944. We know that in every year since that time he has purchased competitive tires and tubes.

Q. What brand, do you know, Mr. King?

A. Well, I would say that probably several, three brands of tires and tubes.

Q. Maybe I can shorten this just by asking one question. Did you get this information, Mr. King, from the distributors' reports, Exhibits, I believe, numbered 8?

A. No. That report covers only our approved line of TBA.

Mr. Dixon: All right.

The Court: You do not make them put into the reports other brands they may have?

The Witness: Oh, no. Oh, no.

By Mr. Dixon:

Q. May I ask where you get the information that you are now giving us and the names?

[fol. 1274] A. Yes. We have representatives who are working with our distributors or who are our contact people with the TBA distributors. This information comes through them, and through channels to me.

Q. That was given to you by the representatives, either yesterday or this morning, before you came into court?

A. Yes. I referred to many bits of information in the past that have come to me and requested that I have this information for you so I could have it for you.

The Court: All right, go ahead.

A. The next is Bunnell, Hawthorne, just outside of Los Angeles here, has been a TBA distributor since 1948 and has distributed other tires than Goodyear each year since that time.

John Webster, Van Nuys, has been a TBA distributor since 1949 and has purchased other tires in each year since his appointment.

And Vern Nevitt, Glendale, has been a TBA distributor since July 1950 and has handled and distributed other tires than Goodyears in that time.

The Court: All right.

By Mr. Dixon:

Q. Does this just relate to tires, Mr. King?

A. Yes. I believe that was our question yesterday, wasn't it, Mr. Dixon?

[fol. 1275] Q. No. Competitive items was the question.

The Court: Well, the other items.

Mr. Dixon: Tires have been in short supply, your Honor, and that is the reason.

The Witness: I understood your question to be tires and tubes, because we talked about it yesterday and I——

The Court: Well, all right. Does the same pattern exist as to other items that can be classified as of the TBA group?

The Witness: Yes, it does, I can say that they do.

The Court: All right.

By Mr. Dixon:

Q. The names that you gave us, Mr. King, related only to tires, is that correct, and tubes?

A. Yes, because that is what I thought your question was directed to yesterday.

Mr. Dixon: I hate to impose upon you, but I would like to ask you to check your records and give us the names tomorrow, through counsel—it won't be necessary for you to be here—the names of any other distributors handling any other competitive items, if you will do that.

The Witness: Yes, sir.

Mr. Dixon: Judge, we will excuse this witness at this time, reserving the right to recall him. There are several other witnesses from outside the state that we would like to accommodate, if possible, before the end of the week.

[fol. 1276] The Court: All right. You, of course, have the right to ask any questions you desire at the present time in

amplifying the testimony as given, or if you want to reserve it until a later time, whichever you want.

Mr. Paradise: I would prefer, if the court please, to reserve the examination of this witness until part of our case because I think it will make a more coherent story to the court.

The Court: That is true, except I want you to know this: Ever since I was in the Superior Court and worked back to 2055, I have taken the view that this evidence is in the record. You see, while it is under cross examination, it is there, and it does not mean that when your turn comes that you are going to start all over the same thing, you know. Some misconceive the object. In other words, you can put him back. You can either examine him now or put him back later, but I am not going to allow you to go over this entire thing on your own terms, as some lawyers want to, because this evidence is the record.

And incidentally, except for a motion for a nonsuit, the law is that this evidence may be considered the basis for a finding either in your favor or against you.

Mr. Paradise: I appreciate that, your Honor.

The Court: I just want to have an understanding because some of you may have had more experience in my court, [fol. 1277] and each of us has his own methods. One of the things I insist on is following the rule that this examination is not just a test in dialectics, you see, that it is evidence in the case which is not binding on them. They can contradict it, but as far as you are concerned it is binding on you because he is your agent. And therefore you are not allowed to go over the same thing but you may amplify it.

The reason I do that is that some attorneys say, "Well, I want to examine him on my own terms." I have said, "Oh, no, not in my court."

All right.

Mr. Paradise: In response to your Honor's suggestion, there would be some necessary, perhaps small—I won't say to the extent—duplications of the subject matter.

The Court: That is right.

Mr. Paradise: By our examination, because, after all, we have this problem of these stations.

The Court: That is true, that is true. Yes, that cannot be avoided, but what I am trying to arrive at is my under-

standing of the rule. The object of allowing the adversary to be brought in, if he is a managing agent, is to secure disclosure. The Government may contradict the facts, and insofar as they are not contradicted they are evidence in the case which are binding and on which a finding can be based.

Mr. Paradise: If I understand your Honor's statement, I [fol. 1278] would like to ask Mr. King a few questions after the recess merely for the purpose of clarifying some matters in yesterday's record, and then reserve his examination until part of our case.

The Court: All right.

(Short recess.)

Mr. Paradise: Will you resume the stand, Mr. King?

Cross examination.

By Mr. Paradise:

Based on our discussion immediately prior to the recess, your Honor, I will ask Mr. King matters only concerning three short subject matters in order to straighten out any apparent conflicts in the record.

Q. Mr. King, you testified yesterday—and I am referring to page 63 of the transcript—in answer to a question of Mr. Dixon's as to how many distributors of automotive accessories or products Richfield has. Your answer—and I will read it:

> "I don't know exactly, but I would say we have in the neighborhood of fifty."

My question is to which distributors did your answer relate?

A. My answer related to those distributors whose sole activity or function is TBA. I should qualify my answer of yesterday and add to that approximately 175 to 200 commission agents who are functioning as TBA distributors.

[fol. 1279] Q. Then, it is correct that as TBA distributors, either as commission agents who are also TBA distributors or exclusively TBA distributors, that there is a number in excess of 200?

A. In excess, somewhere between 200 and 250.

Mr. Paradise: I might state to the court we have a stipulation with counsel as to the names and exhibit numbers. I just did not want the record to have an error.

The Court: All right.

By Mr. Paradise:

Q. On page 72 of the record of yesterday's examination Mr. Dixon asked you:

> "And Richfield also sells some TBA products directly to retail outlets, does it not?"

And your answer was "no." He then asked you:

> "That is, there are no sales by Richfield of any TBA products direct to retail outlets?"

And your answer was "no, sir." And the question was:

> "You are certain of that."

And your answer was: "I am positive of that."

Did your answer relate to tires and batteries, or to accessories?

A. Well, I was thinking of the entire, the complete line, tires, batteries, and all automotive accessories.

Q. Have you since searched the——

A. Yes. I should amend my answer of yesterday and state that we do sell tires and batteries only—tires, tubes [fol. 1280] and batteries only to approximately 25, maybe 28 dealer accounts.

Q. Is there some reason why sales are made to these particular accounts?

A. Oh, yes. These dealers in themselves have exceptionally large volume of business that they are entitled to or command the same discounts were they solely engaged as distributors.

Mr. Paradise: I might also add, your Honor, that we have a stipulation with the Government concerning the names of those stations and the volume of that, and the reason for this examination is to correct this in the record before we pass it too far.

On page 77 of the transcript, Mr. King, the question was asked by Mr. Dixon concerning company operated stations, which, on page 75, you defined as stations operated by individuals in the employ of the company owning the stations. Mr. Dixon's question on page 77—I think it goes back to page 76—Mr. Dixon asked when Richfield ceased operating that type of station. You had already testified that Richfield had operated a few stations that fell in that category. Your answer to the question of when was, on page 76:

> "Well, the last that I recall was possibly seven or eight years ago."

Mr. Dixon then asked:

> "That would be about 1942?"

[fol. 1281] And your answer was: " '42 or '3, somewhere in that time."

What I have said up to now is preliminary. The next question was this:

> "You say prior to that time, that is, prior to 1942, about 1942, and from the period of the commencement of the operations of Richfield, it operated about how many company-operated stations?"

And your answer was:

> "Oh, I don't suppose there were ever more than 30 or 40 at any one time in operation on that basis."

Do you know when the period of company-operated stations by salaries employees, as you testified to, started?

A. It started in 1942 as a result of the calling to the services of numerous operators, which left us with so many stations that would either close up or we had to find some means of maintaining them in operation. So we placed some of our own salaried merchandisers in these stations to keep them in operation, to give us time to find operators. We augmented, we helped those merchandisers out by employing people to assist them. But it was soon evident that operators were leaving us so rapidly as a result of the draft, the military demands, war plant demands, that it was just

impossible to keep up with it. So we abandoned the plan of trying to keep the stations open, entirely, in a matter of months, and thereafter went on through the war period. If [fol. 1282] we could not find an operator for a station, why, it remained closed.

Q. Then you did not intend the impression that the matter or plan of company-operated stations with salaried employees started back in 1937?

A. Oh, no.

Q. And continued and ceased in 1942?

A. Oh, no. It commenced or was completed in a matter of months, in 1942.

Q. Then the number of stations that were so operated that commenced in 1942 continued for how long?

A. I would say not over four or five months.

Q. And what happened to those stations when you ceased that plan?

A. If we did not have an operator for them, they were closed.

Mr. Paradise: That is all. Thank you, your Honor.

The Court: Any questions, Mr. Dixon?

Mr. Dixon: Just one.

Redirect examination.

By Mr. Dixon:

Q. Richfield does not operate any company-operated stations since they closed those stations you just described, have they?

A. You are speaking now when you say "company," you mean salaries operated stations?

[fol. 1283] Q. Yes.

A. I testified yesterday that we did not operate any salaried stations. I possibly could mention one. That is the garage in our office building, but I look upon that as a garage rather than a service station. We, of course, operate that.

Q. But that is the only one that would fall within the classification of company-operated stations?

A. Yes, sir.

Mr. Dixon: Thank you.

The Court: All right, Mr. King, you may step down.

The Witness: Thank you, your Honor.
The Court: Call your next witness.
Mr. Alexander: Mr. Redding.

CARL REDDING, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: Will you state your name, please?
The Witness: Carl Redding.

Direct examination.

By Mr. Alexander.

Q. Will you state your name, please, sir?
A. Carl Redding.
Q. And your residence?
A. 1206 Beardsley Street, San Diego.

Mr. Alexander: Speak up, Mr. Redding, so we can hear you.
[fol. 1284] The Witness: 1206 Beardsley Street, San Diego.
Q. What is your occupation, or employment, Mr. Redding?
A. I run the Redding Supply Co.
Q. How long have you run this company?
A. Almost two years.
Q. Sometime in 1949?
A. Yes, in 1949.
Q. Have you ever been associated with the Richfield Oil Corporation?
A. I was their TBA distributor. I was a part of their TBA distributor.
Q. When did this activity take place, Mr. Redding, when did you become their TBA distributor?
A. I think it was in February or March in 1946.
Q. Calling your attention, Mr. Redding, to about that time, can you recall the conversations that you had with any Richfield representatives in connection with your becoming the TBA representative.
A. Well, there was a considerable amount of conversation made when we became the distributors.

Q. I am speaking about the preliminary negotiations for you to become that person.

A. Well, that was started with a gentleman by the name of Stan Green.

Q When was this and where?

[fol. 1285] A. That happened in a service station.

Q. In San Diego?

A. In San Diego, 12th and Market.

Q. We will tie this down to the date. This was in 1946?

A. I think that was about—I think it was just before '46.

Q. December '45?

A. Yes, along in December.

Q. All right. Now, will you relate to the court what this conversation was that you had with Mr. Stan Green?

Mr. DeMartini: Objected to as no proper foundation laid, your Honor. There is no testimony as to who Stan Green is.

The Court: Overruled. Go ahead.

By Mr. Alexander:

Q. Mr. Redding, do you know who Mr. Stanley Green is?

A. Mr. Stan Green was the San Diego—I don't know whether they call them agents or manager or what they do call them, in the Richfield Oil Co. He had charge of the bulk plant at San Diego.

Mr. Paradise: Pardon me, Mr. Dixon. Is he looking for the stipulation?

Mr. Dixon: I don't know. I think he is.

(Counsel conferring.)

[fol. 1286] By Mr. Alexander:

Q. Now, Mr. Redding, will you continue to relate what conversation you had with Mr. Stanley Green?

A. Well, I knew Mr. Stan Green quite well, and at the time he was looking——

Q. Let us confine it to what was said—excuse me.

A. That is what I am getting at, that subject was what he was talking about. He asked me if I would be interested in taking a TBA distributorship. You are asking me to give the conversation we had, aren't you?

Q. Just the substance of it.

A. All right. So I told him that I was interested in becoming a TBA distributor. How much money would it take? He told me the amount of money. And I gave him a number of references, and at that time he said that he would take it up with the Los Angeles office and he would let us know—he would let me know. So that went on for a couple of months. And he called me one morning and told me that there would be a couple of gentlemen down from L. A. to talk to me, which included the credit manager and a couple of other employees.

Q. Do you recall their names?

A. Well, one. One of them was Hugh Tietjen and the other was Mr. Cecil Burgner.

Q. Hugh Tietjen and Mr. Cecil Burgner?

A. Yes. And the credit manager was Mr. McLaughlin.

[fol. 1287] Q. McLaughlin?

A. McLaughlin. So we met in a hotel and discussed the thing for over——

Q. Excuse me, Mr. Redding. "We met in a hotel"—do you mean these gentlemen did come down?

A. Yes, they came down. But in the meantime I decided to take a partner in with me, which is now Darwin Dapper (?). We talked the thing all over and we decided to take a TBA distributorship. So they made us a TBA distributor. That is how we come about it.

Q. Can you recall about the time that this meeting you had with Mr. Tietjen and Mr. Burgner took place?

A. That was, I think, maybe in March, maybe April, March, or maybe the last of February.

Q. 1946?

A. Yes, '46.

Q. Will you relate to the court, Mr. Redding, what the substance of the conversation was that you had with these two gentlemen in March of 1946?

A. Well, one of the things we met for was to take an order. They were going to set us up in an order of how much merchandise we could handle, how much money we had to handle it with, how much they were going to loan us to handle it with. And the outcome of that deal was that we were to keep our money and use their money. It was a sum [fol. 1288] of about—oh, I think in the neighborhood of

eight or nine thousand dollars. We were to pay that back out of the profits that we made.

Q. Was there any discussion as to the products you should handle?

A. Well, they sat down and they had their catalogs. We went through the catalogs and they specified what we were to handle, how much we were to handle, and at that particular time there was quite a shortage in certain merchandise, and they specified as to the quantity, to the type of merchandise, and the name brand that was approved.

[fol. 1289] Q. Will you relate to the court the type of merchandise in detail, whether tires, batteries, or what?

A. Well, the only type of tires or batteries was Goodyear tires and Goodyear batteries, and Champion spark plugs.

Mr. DeMartini: I object to that as calling for a conclusion.

The Court: You are giving the conversation?

The Witness: Well, if I get it right, he was asking me what kind of merchandise we were to handle, and that is what I was telling you.

The Court: Well, who told you that, that was it.

The Witness: Who told us? Well, it was——

By Mr. Alexander:

Q. Relate your conversation with Mr. Burgner and Mr. Tietjen at the time you were designated the Richfield TBA representative.

A. Well, they were writing this order down.

The Court: Oh, I see.

Mr. Alexander: That clarifies it.

The Court: They were the ones who designated it. Are you talking about batteries now, and tires?

The Witness: Batteries and tires.

The Court: Who designated the tires and the batteries?

The Witness: Cecil Burgner.

The Court: That is all right. Overruled. Go ahead. You [fol. 1290] may continue your answer.

The Witness: Oh, they had a list of approved things, like Champion spark plugs was the only one, and certain types of patches, and when that first order was taken they used their own judgment about it, as to what we should handle, and what we shouldn't handle.

By Mr. Alexander:

Q. This was making up your original inventory?

A. That's right.

Q. Mr. Redding, was there any discussion as to the area in which you should operate?

A. Yes.

Q. Will you relate to the court what was said?

A. We would operate in San Diego County. Oh, we had to buy out Mr. Hartning at Chula Vista, because we was supposed to have that territory also. He was a commission agent handling TBA, so we bought out his stock at the same time. So we took in Chula Vista, National City, the Mexican border, and the beaches to La Jolla. They wanted us to take on Escondido, but we didn't have the equipment, and couldn't buy the trucks at that time to do it.

Q. Mr. Redding, was the number of outlets you were to service indicated to you at this time?

A. Well, we knew without being told because we had handled those when we were at Les Harrington's.

[fol. 1291] Mr. DeMartini: I move to strike the answer, your Honor, as not responsive, and calling for a conclusion, and not a conversation.

The Court: We will strike the answer.

By Mr. Alexander:

Q. Mr. Redding, during the conversation you had with Mr. Tietjen and Mr. Burgner, did they tell you where these products that you were purchasing from them should be distributed and sold?

A. Well, that was the idea when we took it over, was to be a Richfield distributor.

Q. I am asking you for the outlets.

A. No, they didn't specify any separate places to be sold.

Q. The area, as I understand it, that you described was San Diego and Chula Vista?

A. That is right, and the beach area.

Q. Now, the stations that were to be serviced were in that area?

A. That's right.

Q. Were you aware of the number of stations?

A. Yes, there was 28 stations at that time.

Q. Were these referred to in the conversation with Mr. Burgner as the stations you should service as TBA distributor?

Mr. DeMartini: I object as contrary to the statement of [fol. 1292] the witness.

The Court: It is a leading question. I will sustain the objection. He wants you to tell us what was said, if anything was said. I understood at first there was no discussion as to the customers.

The Witness: No, they didn't tell us exactly. They told us the number of accounts. We were already aware of the fact which ones they were, because we took the TBA distributorship over from Harrington, they canceled him out, and gave it to us, so we knew exactly what the accounts were.

The Court: Well, what were they? I mean, what dealers were they? Richfield dealers?

The Witness: Richfield dealers.

The Court: They were Richfield dealers?

The Witness: Richfield dealers.

The Court: And that showed on the records, on the books you examined?

The Witness: That's right. We had a complete list.

The Court: You got a complete list. Let's go on from there.

By Mr. Alexander:

Q. Mr. Redding, in your capacity as a Richfield TBA distributor, were you instructed by Mr. Burgner and Mr. Tietjen in this original conversation as to the type of merchandise that you should handle?

[fol. 1293] A. Yes.

Q. Were you told that the merchandise must be only that which was designated as a sponsored product?

Mr. DeMartini: I object, as calling for a conclusion.

The Court: That is leading. The objection is sustained. He has already mentioned about sponsored products. Tell us what was said about sponsored products.

The Witness: You want me to answer that question "Yes" or "No," or do you want me to talk about it?

Mr. Alexander: The court asked you to tell about sponsored products.

The Court: I am asking you what was said about sponsored products.

The Witness: We were to handle only merchandise that Richfield allowed us to buy.

The Court: And they designated the products?

The Witness: Right.

The Court: Did they mention any other products?

The Witness: There wasn't any other products that we could purchase because we purchased it through them.

The Court: Through them. I see.

The Witness: So we couldn't buy anything that wasn't approved at that time.

The Court: Go ahead.

By Mr. Alexander:

Q. Mr. Redding, you state you purchased your merchan-[fol. 1294] dise from the Richfield Oil Corporation?

A. That's right.

Q. Will you state to the court the manner in which that was done?

A. That's a long procedure there.

Q. Just briefly.

The Court: Make it as brief as you can.

The Witness: We had a regular form which we ordered on. At this particular time there was no man called on us to take this order, so we would write up what we needed, and we would send it in to Richfield, and it went probably to the credit department and on down the line, and then returned, filled out a purchase order, and sent it to the company we were ordering from, and we would receive that merchandise billed to us—no, billed to the Richfield Oil Company in care of Service Station Supply Company.

By Mr. Alexander:

Q. To whom did you pay the money for the merchandise?

A. Well, on most of the occasions, with the exception of a few, we wrote out our check to cover our entire purchases.

Q. To whom was that made payable?

A. To the Richfield Oil Company.

Q. In other words, the Richfield Oil Company was your [fol. 1295] source of supply?

A. That's right, but on several—a few items it wasn't that way, that we were allowed to order direct. Now, I think all of those direct deals was Goodyear tires and batteries, but all car-home auto supplies, which contains about 3,000 items here, were purchased right through the Richfield Oil Company.

The Court: Did they leave a catalogue with you under which you could replenish your stock in case you were low, or what?

The Witness: Well, we ran a perpetual inventory there at all times.

The Court: You did?

The Witness: We were required to.

The Court: I see.

By Mr. Alexander:

Q. Mr. Redding, how did you replenish your inventory of the products you sold?

A. We replenished them with purchase orders.

Q. In the manner you just described?

A. Just described.

Q. Did you receive any instructions from Mr. Burgner at the time of this conversation when you were established as a representative, as to where you should sell these products?

A. Well, there was no specific thing, or conversation [fol. 1296] that we had to sell to one particular station, because we were encouraged to get all the other business we could possibly get to make the thing pay, because this was something new in San Diego. It had been established before, but had never been a success, and we had to maintain an average of over $5,000 a month to stay in business. In other words, we wouldn't break even if we only sold $5,000 worth of merchandise a month, so until they educated the dealers that we were going to give them the right kind of service on all their business, to handle all of the Richfield stations, which at that time they were buying any place they wanted to buy. And they wanted us to pick up all the added business we could possibly pick up to make the thing pay until they could put merchandisers in the field to help us out.

Q. But you directly and personally solicited the Richfield Oil Corporation's stations?

A. That's right. Then at a later date they put a lot of merchandisers in the field that helped us get the business.

Q. Mr. Redding, I show you here Government's Exhibit No. 7 in evidence, and ask you to examine that, please.

A. Yes.

Q. Will you state to the court whether or not you have ever seen that form before?

[fol. 1297] A. Yes, I have. I have made it out a lot of times. I have filled it out a lot of times.

Q. Briefly, then, what use have you made of that form?

A. Well, this is a form that we just talked about this afternoon. This is a form here that we—there is another form that goes with this, isn't there, to make it complete,—a little card, a little manila square card, about 8 by 9? Well, anyway, I don't need it. We would recap off of that card. You should have it to make this complete, but I can tell you about it.

Q. If you will, please, because that is the only form that we have.

A. Well, let's see, sir. Talking about this one form, then,—we are limited to that? I have to tell you about the other one to tell you about this one.

Q. Let's talk about that one.

A. It is a recap of another form, that's all it is. It is a recap that goes in to the Richfield Oil Company, telling them——

Q. Will you explain to the court what you do in executing this form?

A. Well, we write out—wait a minute. This is a different deal here, isn't it? "Richfield TBA distributors monthly report." This form is a form telling the Richfield Company as to what we did for that particular month.

[fol. 1298] The Court: It is a sort of monthly report?

The Witness: That's what it is. The terms, the stations,—it gives a report, a recap of all we did at Richfield stations only.

By Mr. Alexander:

Q. Mr. Redding, do you recall having had a conversation with any Richfield representative in connection with this form?

A. Well, the only conversation we had was if we didn't get it in, we heard a little bit about it.

Q. I mean, when was the form first used by you, and what were the instructions?

A. Well, the instructions were to fill this out monthly.

Q. And what disposition was to be made of it?

A. To send it in to the Los Angeles office.

Q. Did you maintain a copy of this form that was executed by you?

A. Yes.

Q. What disposition was made of that copy?

A. Well, it was filed, and it was used by the merchandisers. They would pick this out from time to time when they would come around, and look it over, and it was just held as a more or less record. But with this form here, we sent in a fourth copy of our sales also, with this form.

[fol. 1299] Q. Did you ever have any conversation with a Richfield representative in connection with an executed form of this nature?

A. Well, they would——

Mr. Paradise: Will you speak a little louder, please, Mr. Redding?

The Witness: Yes, sir. Well, they would use this—mainly, what this was——

By Mr. Alexander:

Q. Mr. Redding, I am asking you, did you have any conversations with a Richfield representative on a form wherein you had indicated the sales that you had made to Richfield dealers or L-O operators.

A. Well, yes. That was a conversation held about every week. We had lots of them.

Q. Can you relate a conversation that you had? Let's tie it down now to a particular person.

A. Well,——

Q. Let me see if I can help you, Mr. Redding. Who in the Richfield office in San Diego was the person with whom you dealt in connection with TBA reports?

A. Well, we dealt with—the first one was Stan Green.

Q. Now, did you have any conversation with Mr. Green in connection with this 1079 or Government's Exhibit No. 7?

A. Well, the conversation we had was that it was to be [fol. 1300] filled out and kept up to date, and they would refer to it to check stations to see what they were selling, how much they were selling, so that they could prod them a little bit to get more business. That's what this was used for.

Mr. DeMartini: I object to that as a conclusion of the witness.

The Court: Overruled. Go ahead. You are telling us what he told you?

The Witness: That's right, trying to, as well as I can.

By Mr. Alexander:

Q. Mr. Redding, in your capacity as a Richfield TBA representative, did you stock any merchandise other than the sponsored products recommended by Richfield?

A. Yes.

Q. Was any of this merchandise sold to any Richfield dealer, that is, any service station handling Richfield petroleum products?

Mr. DeMartini: I will object to that, your Honor, on the ground he cannot testify as to selling to any Richfield station unless the contract is first introduced in evidence as to the Richfield station to whom he sold, as the uncontracted stations do not apply to this case.

The Court: He knows to whom he sold. Go ahead.

By Mr. Alexander:

Q. Mr. Redding, did you sell any of the TBA——

[fol. 1301] The Court: It shows the manner of operation. Go ahead.

By Mr. Alexander:

Q. Do you understand the question?

A. You asked me if we sold any of the unauthorized merchandise to Richfield stations.

Q. Possibly we will want to identify them as Richfield stations with the identification of the colors of the Richfield Oil Corporation?

A. Yes, we sold it to them.

Q. In connection with the conversation you had with Mr. Burgner when you were established, were you told you were to sell only the sponsored products to these stations we have just referred to?

Mr. Paradise: That is objected to as leading and suggestive. I think he should ask for the conversation.

The Court: Yes, I think on the primary facts, until a pattern has been laid. When it becomes repetitious, we may short-cut it, but now we are laying the groundwork, so I don't think we ought to do that.

Mr. Alexander: The difficulty I am having, your Honor, is that in the conversation Mr. Redding had with Mr. Burgner and Mr. Tietjen, they went over all of this material.

The Court: That is all right. That may be true.

Mr. Alexander: It is just that I want Mr. Redding to explain that to us.

[fol. 1302] The Court: In other words, what, if anything, was said about selling other products? You can answer that question.

The Witness: Well, we wasn't supposed to sell any other products.

The Court: That does not answer it.

By Mr. Alexander:

Q. Was that related to you by Mr. Burgner or Mr. Tietjen?

A. That was related to us by a number of Richfield employees.

Q. Can you identify any of these for us?

A. Well, we were told by Mr. Burgner, by Mr. Wilhoit, and we were told by Mr. Tietjen, which is now a TBA distributor. We were told by a Mr. Hasler.

Q. Who is Mr. Hasler?

A. Well, at that time I think he was an assistant to Miller.

Q. To Mr. Miller?

A. Yes.

The Court. All right. Go ahead.

By Mr. Alexander:

Q. Mr. Redding, are you presently a TBA representative of the Richfield Oil Corporation?

A. No.

Q. When did you cease being a representative?

A. I think I was ceased by the Richfield Oil Company.

Q. I am asking you for that date, Mr. Redding.

[fol. 1303] A. No, I have no connection with the Richfield Oil Company.

Q. When did you terminate your representation?

A. In October, 1947, I think it was, or 1948. '48, I guess it was—'48, '49, '50—yes, '48, October.

Mr. Alexander: No further questions.

The Court: Cross-examine.

Mr. Alexander: May I ask just one more question, your Honor.

The Court: Yes.

By Mr. Alexander:

Q. Your last remark was that you were terminated by the Richfield Oil Company as a TBA representative?

A. I wasn't actually terminated. Do you want to know why I was terminated—I mean, why I am not with them?

Q. I want to clarify that in the mind of the court,—because the way it is it states you were terminated. I want to know what the facts were.

A. Well, the fact was that they could do a better merchandising job without me than with me, because I wouldn't be dictated to. That's the whole size of it, because I was in Germany once, and I didn't want any more of it. That is the actual fact.

Mr. DeMartini: I ask that that be stricken, your Honor, as a conclusion of the witness.

[fol. 1304] The Court: Overruled.

The Witness: That is exactly the reason.

The Court: All right. Any questions?

Mr. DeMartini: No questions.

The Court: Step down. You may be excused.

(Witness excused.)

The Court: Call your next witness. These witnesses, after they have completed their testimony, may be excused. Unless you retain them it will be considered that they are excused. Call your next witness.

Mr. Alexander: Mr. Nicholson.

S. L. NICHOLSON, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination:

The Clerk: Will you state your name, please?

The Witness: S. L. Nicholson, N-i-c-h-o-l-s-o-n.

By Mr. Alexander:

Q. Will you state your name, please?

A. S. L. Nicholson.

Q. And your residence?

A. Phoenix, Arizona.

Q. What is your present occupation, Mr. Nicholson?

[fol. 1305] A. I beg pardon?

Q. What is your occupation?

A. I am in the oil business.

Q. Well, what do you mean by "the oil business"?

A. A wholesale jobber for Phillips Petroleum Company.

Q. With the Phillips Petroleum Company?

A. Yes.

Q. Have you ever been associated with the defendant in this case, the Richfield Oil Corporation?

A. Yes, sir.

Q. When?

A. I worked for them from 1937 until '46.

Q. Where were you employed, and in what capacity?

A. As an assistant manager, in charge of Arizona.

Q. Assistant manager in the State of Arizona?

A. In the State of Arizona, yes.

Q. Would that cover the period 1937 to '46?

A. No, I was later put in the northwest, in Seattle, for a while. I was in Arizona from '41 to '46.

Q. 1941 to '46?

A. Yes, sir.

Q. You were assistant division manager for the State of Arizona?

A. That's right.

Q. For the Richfield Oil Corporation?

[fol. 1306] A. Yes, sir.

Q. Who was your superior in that capacity, Mr. Nicholson?

A. Mr. King.

Q. Mr. King?

A. Yes.

Q. Now, calling your attention to the time when you became the assistant division manager, as I understand, it was in 1941?

A. Yes, sir.

Q. —in the State of Arizona. Do you recall having had any conversations or discussions with Mr. King in connection with your duties as assistant division manager?

A. Well, you mean about my duties?

Q. That is correct, sir, as assistant division manager of the State of Arizona?

A. Well, no, I don't. No, I can't recall that I did.

Q. You say you can or cannot?

A. No, I can't.

Q. Will you state briefly what was the nature of the duties of your office of assistant division manager?

A. I handled all the sales, was directly in charge of sales for the State of Arizona.

Q. Would it be a fair statement to say you were in charge of the marketing policy of the Richfield Oil Corporation——

[fol. 1307] A. No, not the policy. I just had charge of selling merchandise.

Q. Selling Richfield's merchandise?

A. That's right.

Q. And the duties that you carried out in that capacity were under the general supervision of Mr. King?

A. Yes, sir.

Q. Now, calling your attention again, Mr. Nicholson, to this time when you were appointed in this capacity, did

you have any conversation with Mr. King about the execution of these duties?

A. Well, nothing, only talked our problems over, about what we had to do, and what we wanted to do.

Q. Well, there was considerable conversation about what you would do in this new position to which you were going in Arizona?

A. Yes, we had certain things to do.

Q. Will you explain what was the nature of the conversation as to carrying out your duties in furtherance of the marketing policy of Richfield?

A. Well, we had some spots where we had no business, and we had to lay plans to add to that.

Q. Mr. Nicholson, did Mr. King explain to you what was the policy of the Richfield Oil Corporation that was to be employed by you——

[fol. 1308] A. No.

Q. —as assistant division manager?

A. No.

Q. Will you describe, briefly, to the court, Mr. Nicholson, what was the function of the office of the assistant division manager in the State of Arizona, which you occupied?

A. I had charge of all selling work, in charge of salesmen and operations.

Q. What was the type of customers to whom the products were sold?

A. To service stations and farms and ranches, and commercial accounts.

Q. In your capacity as the assistant division manager, were you familiar with the contractual relationship that existed between the Richfield Oil Corporation and this class of purchasers you referred to——

A. Yes, sir.

Q. —as service station operators?

A. Yes.

[fol. 1309] Q. Mr. Nicholson, I show you here Government's Exhibits 1, 1-A through -E, now in evidence, and Government's Exhibits 5-A, -B, and -C in evidence, and ask you to examine these forms, please, sir. Are these the type of contracts that were entered into between service station operators in the State of Arizona and the Richfield Oil Corporation?

A. Yes.

Q. During the time that you were the assistant division manager?

A. Well, some of the forms, I believe, were of a new type. I don't know. I can't read when they were printed, but I didn't handle any of them after 1946.

Q. No. Did you personally——

A. Sir?

Q. Did you personally handle the execution or negotiations for the execution of any of these instruments?

A. We handled negotiations, yes, and sent them in for approval.

Q. No, you misunderstood me. Did you personally? Did you personally?

A. No. Generally the salesmen handled them, the salesmen or a merchandiser or somebody would handle the execution of them, get them signed and send them to my office.

Q. Excuse me, Mr. Nicholson. I am asking the question did you personally handle the execution or the negotiations [fol. 1310] for the execution?

A. No. No, I didn't.

Q. Was the negotiation for the execution handled under your supervision?

A. Yes.

Q. By whom would that be handled in your office?

A. Well, we had some clerks that handled it, just handled the papers.

Q. I mean the negotiations for the execution in the execution of these documents.

A. No, I didn't execute them.

Q. I know, Mr. Nicholson. I think you misunderstood me. I am asking you to designate your subordinates who did handle the negotiations.

A. The salesman, the salesman and/or the merchandiser.

The Court: And they acted under your supervision?

The Witness: That is right.

The Court: Before we go on, you said you have nothing to indicate the year. I call your attention to the fact that there is a printed legend which gives the year.

The Witness: Yes.

The Court: If you look at this it may refresh your recol-

lection as to whether you handled those during the time you held that office. Every one of them has one.

The Witness: I can't see them.

[fol. 1311] The Court: You can't see that one there, right there?

The Witness: No, I can't see it.

The Court: Maybe you need glasses. Here, will this (magnifying glass) help you.

The Witness: It is fine print. Yes.

The Court: Will this help you?

The Witness: That looks like—no, I don't believe I handled any of this form.

Mr. Alexander: This is the 542.

The Witness: Yes, I have handled 542.

The Court: All right.

By Mr. Alexander:

Q. Mr. Nicholson, will you describe briefly to the court the nature of the duties of the subordinates you refer to as salesmen and merchandisers?

A. Yes. They would go out to solicit business and try to get new operators and get new petroleum accounts.

Q. In this activity of soliciting new business and getting new operators, as you describe, did these gentlemen operate under your supervision?

A. Yes.

Q. Will you state to the court briefly what was the nature of the instructions that you gave these merchandisers or salesmen?

A. Well, of course, acting in the capacity of a sales-manager, why, we tried to get all the business we could and improve our situation.

[fol. 1312] Q. No, Mr. Nicholson. I am referring now to duties in connection with soliciting new business and executing these agreements which are before you, and duties of that nature.

A. Well, I would tell them to go out and get it signed and bring it in to the office, and we would put the papers through in the regular channels.

Q. What did you tell them? What did you give them in the way of instructions as to how to conduct their negotiations?

A. Well, I didn't give them anything——

Q. Just state in your own words.

A. I can't get what you are driving at.

Q. Well, as I understood you to say, Mr. Nicholson, you stated these subordinates——

A. Yes.

Q. —were instructed to solicit new service station locations. Now, can you recall the nature of the instructions that you gave these individuals when they did conduct this activity?

A. Well, I would generally go along and see the location myself, sometimes, and if I saw it was a good deal, go ahead and sign him up. Everything is all right.

Q. Were you ever present any time when one of these deals was negotiated?

A. Yes, I have been.

Q. Can you relate to the court in substance what was [fol. 1313] the nature of the conversation in the form of negotiations?

A. Well, no. It has been so long I wouldn't recall. Each one of them was a separate deal.

Q. Tell us in substance, Mr. Nicholson. I am not asking you to recall every incident, but an incident. Do you recall the nature of the conversation at the time you were installing an operator in a station under either one of these two types of form before you?

A. No, I can't recall the nature of the conversation.

The Court: What was the nature of the instructions, the instructions you were discussing with them about their duties as to the products they were to handle, the accessories or things like that, in a general way? Was there a pattern?

The Witness: Yes, there was a pattern.

The Court: Of instructions?

The Witness: I didn't handle service station operation, like checking a dealer. I had other people do that for me and they would go out and check them in, the merchandisers would or salesmen. I have handled very little of that myself.

By Mr. Alexander:

Q. But you did instruct these subordinates to carry out these instructions?

lection as to whether you handled those during the time you held that office. Every one of them has one.

The Witness: I can't see them.

[fol. 1311] The Court: You can't see that one there, right there?

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The Court: Will this help you?

The Witness: That looks like—no, I don't believe I handled any of this form.

Mr. Alexander: This is the 542.

The Witness: Yes, I have handled 542.

The Court: All right.

By Mr. Alexander:

Q. Mr. Nicholson, will you describe briefly to the court the nature of the duties of the subordinates you refer to as salesmen and merchandisers?

A. Yes. They would go out to solicit business and try to get new operators and get new petroleum accounts.

Q. In this activity of soliciting new business and getting new operators, as you describe, did these gentlemen operate under your supervision?

A. Yes.

Q. Will you state to the court briefly what was the nature of the instructions that you gave these merchandisers or salesmen?

A. Well, of course, acting in the capacity of a sales-manager, why, we tried to get all the business we could and improve our situation.

[fol. 1312] Q. No, Mr. Nicholson. I am referring now to duties in connection with soliciting new business and executing these agreements which are before you, and duties of that nature.

A. Well, I would tell them to go out and get it signed and bring it in to the office, and we would put the papers through in the regular channels.

Q. What did you tell them? What did you give them in the way of instructions as to how to conduct their negotiations?

A. Well, I didn't give them anything——

Q. Just state in your own words.

A. I can't get what you are driving at.

Q. Well, as I understood you to say, Mr. Nicholson, you stated these subordinates——

A. Yes.

Q. —were instructed to solicit new service station locations. Now, can you recall the nature of the instructions that you gave these individuals when they did conduct this activity?

A. Well, I would generally go along and see the location myself, sometimes, and if I saw it was a good deal, go ahead and sign him up. Everything is all right.

Q. Were you ever present any time when one of these deals was negotiated?

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A. Well, no. It has been so long I wouldn't recall. Each one of them was a separate deal.

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A. No, I can't recall the nature of the conversation.

The Court: What was the nature of the instructions, the instructions you were discussing with them about their duties as to the products they were to handle, the accessories or things like that, in a general way? Was there a pattern?

The Witness: Yes, there was a pattern.

The Court: Of instructions?

The Witness: I didn't handle service station operation, like checking a dealer. I had other people do that for me and they would go out and check them in, the merchandisers would or salesmen. I have handled very little of that myself.

By Mr. Alexander:

Q. But you did instruct these subordinates to carry out these instructions?

A. Yes.

Q. Now, do you recall what was the nature of the instructions that you delegated to them?

Mr. DeMartini: I think the questions should be more [fol. 1314] specific.

The Court: The witness himself is so hazy in his recollection that counsel is trying to direct his attention to some conversation as to which his recollection is distinct.

Mr. DeMartini: The witness, you see, has been out of this activity since 1946.

The Court: Yes, I know. We are not criticizing the witness. I am just trying to see if I can help him to remember something. What he wants to know is what did you tell them to tell the prospects.

The Witness: Oh, I see.

The Court: That is what he wants to know.

The Witness: Oh, I would tell them—sometimes I would personally call the man. He might come into the office and I might make a deal with him. I would tell him he was expected to handle our merchandise or oil or gasoline and TBA. Whatever we have to sell he was supposed to handle.

The Court: That would mean what? Whatever you have to sell meant what? What were you referring to?

The Witness: Gasoline or oil.

The Court: I mean what products?

The Witness: The Richfield.

The Court: Richfield products. That is fine. Go ahead.

By Mr. Alexander:

Q. Continue, Mr. Nicholson. That is exactly what I want you to express to the court.

[fol. 1315] The Court: All right, go ahead.

By Mr. Alexander:

Q. You have just referred to an incident where you said you handled it.

A. Yes.

Q. Let us take an incident where the subordinates had to carry out the same duties.

A. Well, I would tell them to install the man as the operator, to handle the paper work, see that the stations were

clean and neat, and properly stocked, and to handle the thing in the usual manner.

Q. Did you tell him what products that he should tell the potential operator he should purchase?

A. Sometimes we did and sometimes we didn't. It was generally assumed when you put a man in one of your stations that he is going to handle your merchandise.

Q. Mr. Nicholson, in your capacity as assistant division agent and as the immediate subordinate of Mr. King was it not your responsibility to carry out the marketing policy of Richfield Oil Corporation?

A. Yes.

Q. In that regard we are attempting to get down to this outlet who is the actual person who sells the products. That is the reason I am asking you if you can't recall what was the nature of the practice.

A. Well, it would be hard to really describe it unless you [fol. 1316] actually done the work yourself.

The Court: You have given us a general idea of what you did in those cases in which you closed the deal. Were your instructions to the men who represented you along the same line, that is, conduct a clean station?

The Witness: Yes, sir.

The Court: And to handle your products?

The Witness: That is right.

The Court: Other than that? You have already told us that. Other than that do you remember anything more specific?

The Witness: No, I can't recall anything more specific than that.

By Mr. Alexander:

Q. You referred a moment ago in your testimony, Mr. Nicholson, to automotive accessories. Did the Richfield Oil Corporation sell automotive accessories to service station operators under contract in these forms Government's 1 to 1-E and 5 through 5-D?

A. Well, at that time when I was in Arizona, of course, during the war years we had practically nothing to sell, so our TBA was a very minor item. In fact we paid very little attention to it at that time.

Q. Mr. Nicholson, I asked you the question: Were there sales made, not the availability. Was there a sales program of TBA products?

A. Yes.

Q. Will you explain to the court the program?

[fol. 1317] A. We had a program with Goodyear, Goodyear-approved items. I had a catalog and would order from the catalog.

Q. Let us relate it a little bit more to these service station operators identified in these contracts.

Mr. Paradise: Which station service operators?

Mr. Alexander: Service station operators operating in the State of Arizona during the time Mr. Nicholson was the assistant division manager.

Mr. Paradise: The question, if the court please, relates to which type of service station operator he was referring to.

The Witness: Whether you are an independent operator or a L-O operator is what you want to know?

The Court: Yes.

Mr. Alexander: That is what Mr. Paradise refers to.

The Court: If there was any difference in the manner.

The Witness: Yes, there is a difference between the independent operator and leased out station.

The Court: In regard to what? In regard to the accessories, the TBA?

The Witness: No, not necessarily accessories, no.

The Court: Well, with regard to accessories, to TBA, what was your policy?

The Witness: Of course, we encourage our L-O operators to handle all of our approved accessories. The independent operators could generally do as they pleased. Some of them [fol. 1318] bought from us and some of them didn't.

By Mr. Alexander:

Q. Were they encouraged to do so?

A. Yes, we naturally encouraged them to do so.

Q. Was there a Richfield TBA representative in the City of Phoenix where you were?

A. No, sir. He was established later.

Q. Mr. Nicholson, in your capacity as assistant division

manager do you recall any sales of petroleum products being made by the Richfield Oil Corporation to retail service stations that were at the same time handling petroleum products of other companies?

A. Well, we sold oil to some stations who handled competitive products.

Q. Any gasoline?

A. No. Generally our gasoline was a hundred per cent account.

Q. Was this a policy of the Richfield Oil Corporation on the gasoline to be sold at Richfield stations?

A. I think it was, yes.

Q. How was that matter brought to your attention, Mr. Nicholson?

A. Are you referring now to the split pumps?

Q. To this matter of the split pump.

The Witness: Split pump accounts?

The Court: Yes, the split pump.

A. I think it was told to me.

[fol. 1319] Q. By whom?

A. By, I think, Mr. Dinkins at that time.

Q. You see, it was conversation or instructions of that nature that I referred to when I asked you if you had any discussion with Mr. King as to the execution of the sales policy.

A. Yes, I think maybe, perhaps Mr. King and I may have discussed about our policy of not having split pump accounts. And, as he said this morning, our experience has always been that the other accounts are easier to handle and worth more to a company than a split pump account.

The Court: Was that a recognized policy as far as you remember?

The Witness: Yes.

The Court: During the entire period you were there?

The Witness: Yes.

The Court: When you were in charge of the Arizona district?

The Witness: That is right.

The Court: Was your stay in Seattle after you quit?

The Witness: No, before.

The Court: It was before?

The Witness: Before, yes.

The Court: You were promoted to Arizona?
The Witness: Yes, promoted to Arizona.
[fol. 1320] The Court: That is all right. Arizona is nice certain times of the year. Go ahead.

By Mr. Alexander:

Q. Mr. Nicholson, were all of the operations as pertaining to marketing of petroleum products for the whole State of Arizona during the period of 1941 to 1945 under your supervision?
A. Yes, sir.

Mr. Alexander: I have no further questions.
The Court: Any cross examination?
Mr. DeMartini: Yes, sir.

Cross-examination.

By Mr. DeMartini:

Q. You have referred to instructions with respect to split pump policy, Mr. Nicholson. When were those instructions given to you and by whom?
A. As I recall it, I think Mr. Dinkins gave them to me about in 1937 or '38. About '38, I think, while I was still in Seattle.
Q. Did you ever have solicitation from an account for the purchase of gasoline for less than the entire number of pumps in that station?
A. Yes.
Q. Did the occasion ever occur?
A. Yes.
Q. When did that occur?
[fol. 1321] A. Well, I would say along about in '40 and '41.
Q. 1941. And at that time you refused to, or did you take on the account?
A. We did take on the account, yes, and later converted to a hundred per cent account.
Q. When did that take place?
A. Well, either in 1940 or 1941, in Phoenix. In fact, we had two of them at that time. We later converted them to a hundred per cent account.

Q. That was at the time that you received the instruction that you speak of by Mr. King?

A. I think possibly, yes.

Q. Has it ever happened since that date?

A. Not as I know of.

Q. In response to a question from Mr. Alexander you stated that at the time of the installation of an operator in a station the operator was instructed as to the manner of operating the station, is that correct?

A. Well, we generally discussed it with him, yes, how we——

Q. Were you speaking of L-O stations?

A. L-O stations, yes.

Q. And you were not speaking of the independent stations?

A. That is right. L-O stations only.

Mr. DeMartini: I think that is all.

[fol. 1322] The Court: All right. Any redirect?

Redirect examination.

By Mr. Alexander:

Q. Mr. Nicholson, these two instances you speak of in 1940 or 1941 in this category of split pump, what was the nature of those at the time you entered into this transaction?

A. They were handling competitive brands of gasoline.

Q. Were they service stations?

A. Yes.

Q. What was the nature of the negotiations that were conducted by your subordinates or you with the service station operators that entered into the contracts or relationships under the 337 type of agreement before you?

A. What was our relationship?

Q. What was the nature of the negotiations?

A. Well, we generally went out and executed the sales contract and paint contracts, and later put up our signs and painted the station and made an independent account of it.

Q. Let us be a little more preliminary. That is what happened. Let us start at the beginning. When you were

conducting the negotiations what was said concerning the sale of petroleum products?

Mr. DeMartini: I will object to this as no proper foundation laid, without referring to the specific instances.

The Court: Overruled.

[fol. 1323] Mr. Alexander: However, we are attempting to establish this existing policy. The witness has difficulty on this——

The Court: All right, go ahead.

The Witness: Where were we, again? What was the question, please?

The Court: Read the question.

(Question read by the reporter.)

A. Well, in discussing the sale of petroleum products we told a man we had good gasoline, good oil, and good accessories, and discussed the merits of the products and the quality, etc.

The Court: What products are you talking about?

The Witness: Richfield.

The Court: That is right. That is what you wanted him to handle?

The Witness: That is right.

By Mr. Alexander:

Q. Was there any discussion about the handling or not handling competitive products to Richfield?

A. No. Naturally, we would encourage him to handle everything, but we didn't really make an issue out of it at that time.

Mr. Alexander: Just one more question, your Honor.

Q. Referring to these two stations in 1940 or 1941 that were converted, were these stations converted to what you called in your testimony 100 per cent, pursuant to instructions?

[fol. 1324] A. Yes.

Q. Of the Richfield Oil Company?

A. Yes.

The Court: They had handled somebody else's products?

The Witness: That is right.

The Court: And you changed them into Richfield products?

The Witness: Richfield stations, that is right.

The Court: And Richfield signs?

The Witness: That is right.

The Court: When you did that did you keep the pumps that were there or did you install new pumps?

The Witness: I think at that time they installed new pumps in those stations.

The Court: Anything further, gentlemen?

Mr. Alexander: That is all.

The Court: All right, you may be excused. Gentlemen, it is 5:00 o'clock, unless you have a very brief witness that you want to get out.

Mr. Alexander: I think we do, your Honor. We have one brief witness from Prescott, Arizona.

The Court: All right.

A. J. Cowan, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: Will you state your name, please?

[fol. 1325] The Witness: A. J. Cowan.

Direct examination.

By Mr. Alexander:

Q. Would you state your full name, sir?

A. A. J. Cowan.

Q. Where do you live?

A. Prescott, Arizona.

Q. Have you ever been employed by or associated with Richfield Oil Corporation?

A. Yes, sir.

Q. When and where?

A. In Prescott, Arizona, from 1941 through most of 1948.

Mr. Alexander: Speak up, Mr. Cowan. Counsel cannot hear.

The Court: Speak loud enough that counsel can hear you.

The Witness: All right.

By Mr. Alexander:

Q. In what capacity were you employed, Mr. Cowan?

A. As district salesman from 1941 through most or half of 1945.

Q. District salesman?

A. Yes, sir.

Q. Who was your superior while you were serving in that capacity?

A. Mr. Nicholson for the greater part of the time.

Q. The gentleman who just testified here?

A. Yes, sir.

[fol. 1326] Q. Will you describe to the court briefly, Mr. Cowan, what was the nature of your duties as district salesman?

A. Well, my duties involved the solicitation, the general solicitation for the sale of products which Richfield had for sale, and to look after and aid in the matter of keeping their marketing facilities in the proper state of repair and cleanliness.

Q. About how many accounts were you servicing in this manner you describe?

A. Are you speaking of retail accounts?

Q. Well, whatever accounts. What type of accounts did you have?

A. Well, we had various and sundry types of accounts, retail and consumer type. Are you speaking just strictly of retail accounts when you asked me how many?

Q. Where the purchaser resells it.

A. Approximately——

The Court: You mean by "retail" station outlets?

The Witness: Reselling, yes, sir. Reselling outlets.

The Court: Consumer account you mean you would sell to farmers and others?

The Witness: That is right.

The Court: Ranchers, as they call them in Arizona, direct?

[fol. 1327] The Witness: Yes, sir.

The Court: Those persons who buy large quantities?

The Witness: Yes, sir. They are consumer types.

The Court: They are consumer types.

By Mr. Alexander:

Q. How many outlets were there of the type you describe as retail outlets?

A. Approximately 20.

Q. What was your area of operation, Mr. Cowan?

A. About one-third of the State of Arizona or possibly less. The northern portion I should say.

Q. Now calling your attention to the period 1941, when you were in the employ of Richfield, Mr. Nicholson was at that time your superior?

A. That is right.

[fol. 1328] Q. Do you recall having had any conversation with Mr. Nicholson as to how you shall carry out these duties that you were just venturing upon?

A. Well, there were very definite matters, of course, which were given to me, on what duties I should perform.

Q. Let's be more specific now. For instance, in connection with the solicitation of a new account, a new retail account?

A. Yes.

Q. Do you recall what instructions were given to you?

A. Of course, my instructions was a sort of an intangible thing. I had to draw on my imagination in order to fulfill some of my instructions, and that was to do a good job of selling, and that is really what my instructions amounted to.

Q. Were you familiar with the contractual relationship that existed between the Richfield Oil Corporation and the service station dealers, as a result of your solicitation?

A. In some instances, yes, sir.

Q. Will you describe briefly to the court what was the transaction that took place from the time you started that negotiation until the time you had the man on the dotted line?

A. In what particular form?

[fol. 1329] Mr. DeMartini: I object to that as ambiguous and not referring to any particular type of station.

The Court: He is just asking that. The witness interposed and asked what type of station you are referring to. Let's take the L-O type.

By Mr. Alexander.

Q. What are the types——

The Court: What types did you have?

The Witness: The contract covering an L-O type of operation, and the contract which has been referred to as the 337.

By Mr. Alexander:

Q. Let's take the L-O type. Are you familiar with the type of agreement that——

A. I was familiar with the type at that time.

The Court: All right. He is asking you about the time when you were active.

The Witness: Yes, sir.

Mr. Alexander: 1941 to 1945.

The Court: Now, answer the question as to the L-O type. What did you tell them?

By Mr. Alexander:

Q. Just describe the negotiations. What did you do?

A. To install an operator,——

Mr. Paradise: Will you speak up just a little louder, please?

The Court: Yes.

[fol. 1330] The Witness: Well, my procedure there would be to establish whether or not the individual being considered was one who we would want in that particular place, and with that being established, then the matter of the physical part of it would be discussed, insofar as what was expected of the man after he was installed there.

By Mr. Alexander:

Q. Well, now, let's have you tell us what the conversation was. You say what was discussed and what was expected. Tell us what was said.

A. The physical operation of these outlets——

Q. No, these expectations you were talking about. I am sorry to continually interrupt you.

A. I don't know if I used that term.

Q. What did you expect?

The Court: What did you expect him to do in the operation of the station?

The Witness: We would expect him to sell a quantity comparable to what we estimated the place was capable of doing, and we would discuss plans and methods to reach that expectation.

By Mr. Alexander:

Q. Now, what was he talking about selling, Mr. Cowan?

A. I am speaking particularly of petroleum products.

Q. Were there other products to be sold?

A. Yes.

[fol. 1331] Q. Was there a discussion had in connection with those also?

A. Oh, yes, sir.

The Court: Now, you are talking about the products of the Richfield Oil Company or the sponsored products?

The Witness: Both, sir.

The Court: Both. Go ahead.

The Witness: And with an agreement between us, we would agree that those figures were satisfactory to both sides. Then the contract was entered into, and the man got under way with his operation.

The Court: Now, will you tell us how did that differ from the other group. The group of stations you are talking about is what has been referred to as the L-O type?

The Witness: Yes, sir.

The Court: Now, how about the other type?

The Witness: Well, the conversation was very much the same.

The Court: It was very much the same. Go ahead.

The Witness: There was no control, of course, over my efforts. I mean, I could not assert any control over the dealer who might have been contracted with under the 337.

The Court: That is right.

The Witness: However, the same persuasive conversation was applied.

[fol. 1332] The Court: All right.

By Mr. Alexander:

Q. Were the same expectations implanted there?

A. The same idea was discussed in probably a little lighter flavor.

Q. Now, Mr. Cowan, turning your attention to the time from 1945 to 1948, when you testified you were a commission agent, in that capacity what was the nature of your duties?

A. The duties as a commission agent was very much like that at the time I was operating as a salaried employee. My manner of payment or compensation was different. That was the primary difference.

Q. What did you do? What was the nature of your duties?

A. I was responsible for the distribution of petroleum products to any and all types of accounts which we may have had in my particular area, and so far as the contracts, I had about the same association in the handling of those contracts that I had, which I have just described.

The Court: The only thing different was your method of pay?

The Witness: Primarily, that was the difference, and I was responsible for all stock which was held in my possession and belonging to Richfield.

The Court: That you had for sale to the retail outlets?

[fol. 1333] The Witness: That's right.

By Mr. Alexander:

Q. At the time the merchandise you were distributing was Richfield's and had passed to the merchandiser?

A. At the time of delivery to that purchaser.

The Court: Did you have a storeroom during that period where you kept accessories, or other things?

The Witness: Yes, sir.

The Court: Before you did not?

The Witness: No, before there was no stock in my possession.

The Court: No stock in your possession. Then you carried all the tires, and accessories, and other things?

The Witness: No, your Honor. I had nothing to do with the distribution of the TBA set-up. I was not a TBA distributor.

The Court: You were not?
The Witness: No.
The Court: What stock did you carry, then?
The Witness: The petroleum products.
The Court: The petroleum products. I beg your pardon.

By Mr. Alexander:

Q. Mr. Cowan, in your distribution of petroleum products during 1945 to 1948, do you recall ever having delivered petroleum products to any service station outlet other than [fol. 1334] the Richfield Oil Corporation's products?
A. Yes, I have.
Q. Do you recall having delivered petroleum gasoline to any retail service station which entered into a contractual relation of the type referred to as L-O and 337 during this period?
A. Would you restate that? I didn't quite follow you.
The Court: You used the words "petroleum" and "gasoline."

Mr. Alexander: I will withdraw the question, your Honor.
The Court: It is confusing. "Petroleum" is the generic term, and gasoline is gasoline.

By Mr. Alexander:

Q. Do you recall, Mr. Cowan, of ever having delivered Richfield petroleum products to a gasoline outlet wherein there was handled another company's gasoline?
A. I have delivered petroleum products, yes.
Q. No, I asked you as to gasoline.
A. Other than gasoline.
The Court: By that you mean greases and oils, don't you?
The Witness: Yes, sir.
The Court: All right. Then, what is your answer as to [fol. 1335] gasoline?
The Witness: No, I don't recall having made any delivery of gasoline.

By Mr. Alexander:

Q. Who was your superior while you were serving in this capacity as commission agent, Mr. Cowan?

A. Mr. Wild, I believe, for the greater portion of the time, and followed by Mr. Schrader.

Q. Did you ever receive instructions from Mr. Schrader or Mr. Wild in connection with the manner in which you should distribute the petroleum products of the Richfield Oil Corporation?

A. I can't recall any specific time. There were often discussions that covered the matter of policy in general.

The Court: Did those discussions as to policy vary in any way from the pattern you have described so far, that is, to push the products which Richfield made, or those which they sponsored?

The Witness: Well, I think our discussion probably covered all phases of it, your Honor.

The Court: All right.

Mr. Alexander: No further questions, your Honor.

The Court: Any questions?

Mr. DeMartini: Just a couple of questions.

[fol. 1336] Cross examination.

By Mr. DeMartini:

Q. You understand the difference between an L-O operator, and a 3-C dealer, or 337 dealer, do you not, Mr. Cowan?

A. I believe I do, sir.

Q. During the time that you were in Arizona, both as an employee and as a commission agent, did you have occasion to install any L-O operators?

A. Yes, sir.

Q. What did you tell them at the time of installation?

A. I think I covered that to some extent, and I will repeat it, on the question that Mr. Alexander asked me, that we discussed the possibilities of that man as an operator in that particular unit, the possibilities for his profit, in other words, and he was quite specifically instructed in the physical upkeep of the property and the advantages that he might benefit from in handling the products which we had at that time for sale.

Q. Did you know that that lease had a 24-hour termination privilege on the part of either party?

A. Yes, sir.

Q. Did you discuss that with him?

A. Yes, sir.

Q. And the reasons that it was in the agreement?

[fol. 1337] A. Yes, sir.

Q. What were the reasons?

A. In that—due to the fact that the property, for one, of course, belonged to Richfield, and that they were not agreeable to leasing the thing over a long period of time, because if his operation become unsatisfactory, then he could go away or he could even leave the place, for that matter, leave it closed, and it would be an unsatisfactory operation, and for that reason there was a short term operation period specified.

Q. In other words, is it correct to state that he was told that if he did not operate it properly "we" would exercise the termination privilege?

A. That's right.

Q. Is there such a thing as installation of a 337 operator, or was there during the term of your tenure?

A. Not to my knowledge.

Q. A 337 operator, or, dealer, rather, is one to whom you sell gasoline and who is in possession of a station; isn't that correct?

A. I think that's true, in most cases that I know about, at least.

Q. Did you issue any instructions in regard to maintenance or control of a 337 dealer?

A. Persuasive type only.

[fol. 1338] Mr. DeMartini: That is all.

The Court: And that persuasion relates to what? Let's wind up with a positive answer.

The Witness: Well, your Honor, in a case of that kind, normally that property belonged to that man, and it was really an impossibility to tell him what to do, so we appealed to his sense of good judgment.

The Court: To use your products?

The Witness: That's right, and to police the place.

Mr. DeMartini: One further question?

The Court: All right.

By Mr. DeMartini:

Q. If you did tell him what to do, and he did not comply with your instructions, what could you do about it?

A. Not anything.

The Court: I will ask this question: Did you ever have any way of policing either type as to whether they were conforming to your standards, both as to care of the station or as to products sold?

The Witness: Well, it was one of my duties, sir,——

The Court: You did that?

The Witness: —to look over and see after that sort of thing.

The Court: All right, gentlemen. You may be excused.

(Witness excused.)

[fol. 1339-1342] The Court: Tomorrow morning, gentlemen.

(Whereupon at 5:20 o'clock p. m., Wednesday, May 9, 1951, an adjournment was taken until Thursday, May 10, 1951, at 10:00 o'clock a. m.)

[fol. 1343] Thursday, May 10, 1951. 10:00 A.M.

The Court: All right, gentlemen. Call your next witness.

Mr. Somerville: The government calls as its next witness Mr. Duarte.

Joseph J. Duarte, Jr., called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination.

The Clerk: Will you state your name, please?

By Mr. Somerville:

Q. Would you state your name for the record, sir?
A. You have to speak louder. I don't hear very good.
The Court: You can come up near the witness.

By Mr. Somerville:

Q. Would you tell the court your name?
A. Joseph J. Duarte, Jr.
Q. Where do you reside, Mr. Duarte?
A. What is that?
Q. Where do you live?

A. Hayward; Hayward, California.

Q. At the present time how are you employed?

[fol. 1344] A. I work for Ford.

Q. Calling your attention to the period of around November, 1942, what was your employment at that time?

A. I was a Richfield agent.

Q. A Richfield agent. Do you mean a commission bulk plant agent?

A. That's right.

Q. How long did you act in the capacity of a commission bulk plant agent?

A. From September, '38 to October, 1945.

Q. Did you have a written agreement with Richfield Oil Corporation concerning the operation of that bulk plant?

A. Yes, sir.

Mr. Somerville: The government has had marked for identification Exhibit 6-F, commission agency agreement on Form 537, print date 6-42, between Richfield Oil Corporation and Joseph J. Duarte, Jr. and Victor A. Costa, a copartnership.

The government offers this in evidence as its exhibit next in order.

Mr. Paradise: It is objected to on the ground of immateriality. There is no issue in this suit as to the relationship between this defendant and the commission agent.

Mr. Somerville: Your Honor, this is the same type of agreement, except a different print date, as the agreements [fol. 1345] which were offered into evidence yesterday.

The Court: Let me see it.

(The document was handed to the court.)

Mr. Somerville: That was one form of agreement that wasn't offered, one print date that wasn't included in that group.

The Court: All right. Overruled.

(The document referred to was marked Plaintiff's Exhibit 6-F, and was received in evidence.)

By Mr. Somerville:

Q. Now, with respect to your operations as a bulk plant agent, Mr. Duarte, did you sell the petroleum products of the Richfield Oil Corporation?

A. Yes, sir.

Q. At the time you took over this bulk plant, did you also handle TBA? You understand what I mean by TBA?

A. Yes, sir.

Q. Tires, batteries, and accessories, automotive accessories?

A. Yes, sir.

Q. Did you handle those at the beginning when you took over the bulk plant?

A. Well, I am not quite sure if it was the first year or the second year, but it was either 1940 or '41 that they approached us to sell tires, batteries and accessories.

Q. Are you familiar, Mr. Duarte, with this agreement, [fol. 1346] Government's Exhibit 6-F?

A. Yes. The day we signed our original agreement in 1938, the Richfield Oil Corporation read it to us.

Q. And this is a subsequent agreement of a later date?

A. Well, I wouldn't know if it is the same as '38 or not.

Q. Well, this is a subsequent agreement.

A. O. K.

Q. You are familiar with this particular agreement, are you?

A. I signed one of those, yes.

[fol. 1347] Q. I call your attention to this first paragraph and ask you what the provision is with respect to the termination of that agreement?

A. Well, it was a 24-hour basis and either party could cancel the agreement at any time.

Q. Now, I call your attention to paragraph 2 and ask you what business you were required to solicit under the agreement?

Mr. DeMartini: I will object to this as calling for a conclusion of the witness. The instrument speaks for itself.

The Court: Well, what he did under it. I do not think it should be interpreted. You are talking now of the other parties to the contract. All he did is to take one of the agencies. He is not in the same position as the representa-

tive of the company was. Any addition to the written agreement or any elaboration of it may have made a statement which would transcend the agreement, which could have been binding. You cannot ask him to interpret the agreement. The objection is sustained. That is what he did.

Mr. Somerville: I was not attempting to interpret the agreement.

Q. Mr. Duarte, under this commission agency agreement or in connection with it were you approached by anyone from Richfield with respect to handling and distributing TBA products?

[fol. 1348] A. Yes, we were.

Q. And, as I understand that, that was in 1941-1942, around that period?

A. As far as I can remember, yes.

Q. And who from Richfield Oil Corporation approached you with respect to that?

A. At that particular time it was a gentleman by the name of Jack Walcott.

Q. Do you recall what his capacity was with Richfield?

A. Well, at that time things were bad and he asked us to take TBA.

Q. Pardon. I asked you if you knew what his capacity with Richfield was.

A. Oh. He was a territorial salesman.

Q. A territorial salesman?

A. That is right.

Q. And as territorial salesman he would contact you with respect to sales of Richfield products in your area?

A. That is right.

Q. What did he say? First of all, where did these conversations occur?

A. At our bulk plant.

Q. Were there any other parties present?

A. I don't remember. I think there was only Mr. Walcott. I am not sure.

[fol. 1349] Q. Was your partner present, Mr. Costa?

A. My partner, yes, sir.

Q. Would you tell the court just what the proposition or conversations were at that time concerning TBA?

A. Well, as far as I can remember, he asked us that Richfield had some big tie-up with Goodyear tires and bat-

teries and that their deal was closed, and it was up to the agent, Richfield agent, to distribute these products to our stations. Well, before it got that far, we decided that we couldn't handle it because we couldn't afford it.

Q. You did not want to handle the TBA line?

A. We didn't want it because we couldn't afford it.

Q. At that time was there anything further said——

A. Yes, sir.

Q. —about your handling these products?

A. Yes, sir.

Q. What was said?

A. He said if we couldn't handle it, that it would be their policy to put in a new agent that could, because they have to handle those products.

Mr. DeMartini: I object to this as immaterial, your Honor, and not within the issues of the case, and move that the answer be stricken.

Mr. Somerville: The materiality will be shown here as the witness testifies further. It is a preliminary question, [fol. 1350] your Honor.

The Court: All right, I will reserve a motion to strike.

By Mr. Somerville:

Q. What was the result of that? Did you take on the TBA line?

A. Well, we went out and borrowed the money and took it.

Q. Was anything said at that time or subsequently with respect to the accounts to whom you would sell these products?

A. We were asked——

Mr. DeMartini: I want to make an objection, your Honor. I do not know the time that counsel refers to.

The Court: All right.

By Mr. Somerville:

Q. Would you explain, or, rather, relate the approximate time that any conversation occurred and who the parties making the conversation concerning the customers to whom you were to sell the TBA products?

A. As far as I can remember we were told to sell all Richfield outlets, but mostly the Richfield Company units; that we couldn't make any independent dealer, which he owned his own station and pumps, buy the tires, batteries and accessories because he didn't have to, because he had no contract with Richfield; that he was employed as one of their company units. That is all I can remember.

Q. Nothing was said about selling these products to all units regardless of a category?

[fol. 1351] Mr. DeMartini: I will object to this as leading, your Honor, and suggestive.

A. No.

The Court: I will ask you to desist from asking leading questions from the witness. He is intelligent and knows what was said.

Mr. Somerville: All right.

A. That the company units were the ones that Richfield really wanted to buy TBA, and they had to buy it. That is why they put it in our bulk plant.

Mr. DeMartini: I will object to that and move that the answer be stricken, your Honor, as a conclusion of the witness.

The Court: No, no. Are you telling us what this man told you?

The Witness: That is right.

The Court: I see. All right.

By Mr. Somerville:

Q. Who was this man?

A. Jack Walcott. We were supposed to deliver the products to the Richfield dealer and if he didn't want to buy those products, we were to put another new dealer in that would. That was their policy.

Q. Would you tell the court the area in which your bulk plant operations were confined?

A. Southern Alameda County.

[fol. 1352] Q. Would you sell to Richfield service stations within all of that area?

A. Yes, sir.

Q. Did you yourself make any contact with the Richfield service stations concerning the sale of Richfield TBA approved products and petroleum products?

A. I delivered gas and oil with a truck to the stations. I was in contact with them every day.

Q. Going back now for a moment to these conversations with Mr. Wolcott, was anything said with respect to whether or not you could sell any other products than these authorized TBA products to the service stations?

A. Well, getting back to Richfield service stations, they wanted authorized products delivered to the company units, and no other product. They couldn't buy any other product but Richfield approved products.

Q. You don't understand my question, Mr. Duarte. My question is this: Preliminarily, let me ask you, did they explain what products were authorized?

A. Yes.

Q. Was it explained whether or not you could handle any other products?

A. No, they couldn't buy no other products.

Q. I am talking about you. Could you handle any other products?

[fol. 1353] A. Oh, no.

Q. Was anything said about whether or not you could sell outside non-approved products directly competitive with the products handled by you and approved by Richfield to Richfield service stations?

A. Well, we knew at the time——

Mr. DeMartini: I object. That is immaterial.

The Court: I will sustain the objection. He has already told us what he was told by this man Jack Wolcott.

The Witness: Wolcott, yes, your Honor.

By Mr. Somerville:

Q. Mr. Duarte, in your contacts with the trade, did you sell approved TBA merchandise and petroleum products to the Richfield stations in your area?

A. Yes, sir.

Q. Did you distinguish between stations, leased out type of stations, or other types of stations or accounts?

Mr. DeMartini: I object to that as no proper foundation laid.

The Court: Overruled. Go ahead.

The Witness: I sold everybody that wanted to buy it.

By Mr. Somerville:

Q. All right. Now, in connection with your contacting the trade, contacting the service stations, would you report sales that you made to any representative of the Richfield Oil Corporation?

Mr. DeMartini: I will object to that.

[fol. 1354] The Witness: I don't know what you mean.

By Mr. Sommerville:

Q. Did you report sales of approved TBA items to Richfield.

A. Report it to Richfield?

Mr. Somerville: Yes.

Mr. DeMartini: I think that is immaterial.

The Witness: I don't know——

Mr. DeMartini: The use of the term "representative" is vague and ambiguous.

The Court: Go ahead.

The Witness: What do you mean?

By Mr. Somerville:

Q. I am not talking about whether you personally made out reports, but did your company, either you or your partner——

A. Yes.

Q. —report to Richfield on any forms the sales which you made of authorized TBA merchandise to the Richfield service stations?

A. Well, either he or the girl in the office did that. I never had nothing to do with the office.

Q. All right. But you do know of your own knowledge that that was done?

A. As far as I could remember, I think we were supposed to, or something like that.

Q. You don't recall any conversations about that?

[fol. 1355] A. No.

Q. Now, Mr. Duarte, calling your attention to a service station in Hayward, California, operated by Peter Koenen, K-o-e-n-e-n.

A. Yes.

Q. Are you familiar with that service station?

A. Yes. That has been a Richfield station for about 30 years.

Q. And did you contact that station?

A. Every day. Every other day, rather.

Q. Do you know whether or not that is a leased out type, or whether the operator——

A. That was privately owned by Mr. Koenen.

Q. With respect to that station, at any time was there any mention made by any representative of Richfield to you with respect to any competitive products at that station?

Mr. DeMartini: I will object to the question, your Honor, unless an instrument is introduced in writing to bring the station within the issues of this case.

The Court: Overruled. Go ahead.

The Witness: Now, let's get back there again.

Mr. Somerville: Would you read the question, please?

(The question was read.)

The Witness: Thank you. Yes, there was a gentleman by the name of Al Wallace, he was another territorial sales-[fol. 1356] man for Richfield, and he asked me to contact Mr. Koenen, being that his service station was on the main highway, to see that he got rid of his competitive oil, that Richfield Oil Company had painted his unit, and if he didn't get rid of it, they would cancel his lease. And that's why I went down to Mr. Koenen and told him that Richfield didn't like the idea that he was buying competitive oil. So to get along, and I didn't want to lose the unit, we had him put the oil in the garage, and kept one case in the station, and when customers asked for it, he gave it to them, but he wouldn't display it because it was against Richfield's policy.

Mr. Somerville: I would like to clarify one thing.

Mr. Paradise: Your Honor, is it appropriate to make a motion to strike at this time? I think the witness' answer

reveals the difficulty of having testimony of this nature without benefit of the instrument before the court. The witness mentioned there was a lease to be terminated, and in the same breath he mentioned that this might have been an independent station.

The Witness: It was.

Mr. Paradise: I don't think the witness is qualified to tell. That is a question for this court, and before this witness should be permitted to testify concerning any particular station, a proper foundation should be laid, consisting [fol. 1357] of the instrument being before the court. Otherwise, it is a matter of complete misunderstanding.

The Court: I do not think it is necessary as to each of these items to tie them down at the very moment. I agree that in the last analysis it is important to know what type of station this man was operating and, furthermore, I am going to make this observation at the present time. I am not going to draw in the record at the present time the distinction that you think exists between the L-O stations and the other stations, what you call an independent station. I am going to allow the government to present evidence on its theory that the result is the same. Then it will be up to you, at the end of the government's case, to make a motion either to dismiss or to put out of the case the stations that you think are independent. If you convince me of your interpretation of the contract, then I can merely confine your proof to the others. Otherwise, I have to rule at the present time upon your contention.

Mr. Paradise: No, we are not asking for a ruling by the court at this time that the relationship between Richfield and the operators of those stations is not independent, as we contend, or is independent.

The Court: Yes.

Mr. Paradise: But inasmuch as the chief, if not one of the most vital issues in this case is the difference in relationship between Richfield and the L-O stations and the [fol. 1358] relationship between Richfield and the independent stations, I think it is only fair, both to the witness and to the court, and for the purpose of a proper interpretation of the record to keep distinct the type of station it is. The government can very simply ask about the two types

separately, and if they contend there is no difference in relationship, the proof will so show.

The Court: I will deny the motion to strike at the present time, but if this witness knows the type of station, if he, like others, knows the difference in L-O stations and independent stations, I think he should state. Do you know the difference between them.

The Witness: That was, your Honor, that was an independent station.

The Court: You mean what Richfield calls a Richfield independent station?

The Witness: Yes, sir.

The Court: Not an independent station along——

The Witness: An independent Richfield station.

The Court: And not what is known as an L-O station?

The Witness: Yes, your Honor.

The Court: All right. Go ahead.

By Mr. Somerville:

Q. Was there anything said concerning TBA products at that station?

A. Will you speak a little louder, please?

[fol. 1359] Q. Was anything said, Mr. Duarte, with respect to TBA products at that station?

Mr. Paradise: Is your question directed to his conversation with Mr. Wallace?

Mr. Somerville: Yes, sir.

The Witness: Well, that particular station did not buy any TBA products, because he was a Richfield independent dealer.

By Mr. Somerville:

Q. What I want to ask you about is, sir——

The Court: Not whether he bought, but whether this was discussed between you and the representative of Richfield.

By Mr. Somerville:

Q. Was there anything said by the Richfield representative concerning the fact that he didn't buy,—anything said to you concerning his failure to buy?

A. No, sir. To clarify that, I will say the discussion——

Mr. Paradise: The question calls for "Yes" or "No."

By Mr. Somerville:

Q. Was there any conversation? First of all, let's establish that.

A. Yes, there was a conversation.

Q. With respect to TBA?

A. To all stations. We are not going to any particular station.

Q. If there was no conversation, let's forget it.

[fol. 1360] A. No.

Q. Calling your attention now to a service station operated by Al Roush, R-o-u-s-h, at 301 Castro Street, Hayward, California, are you familiar with that station?

A. Yes, sir.

Q. Did you make sales or attempt to make sales at that station?

A. Yes.

Q. At any time was your attention called to the competitive products being handled at that station by any representative of Richfield? Did you ever have any conversation concerning that station with someone?

A. No, not that particular station.

Q. With respect to petroleum products, now, lubricating oils and gasoline, was there any general policy enunciated in any conversations between you and any representative of Richfield concerning the display or handling of competitive oils?

Mr. Paradise: Objected to as calling for the conclusion of the witness. He can ask for the conversation.

The Court: He can give a "Yes" or "No" answer.

By Mr. Somerville:

Q. Did you have any conversations?

A. Clear it up a little.

The Court: In view of the witness' difficulty, the implanting of a discussion or a particular conversation will be [fol. 1361] helpful.

By Mr. Somerville:

Q. Did Mr. Wallace have any conversations with you concerning Richfield's policy about competitive oils being delivered with respect to all of these stations?

A. The discussion I had with Mr. Wallace was to see that all L-O units used 100 per cent Richfield products and approved accessories.

Q. It didn't go any further than that?

A. That's it.

Mr. Somerville: I think that will be all.

The Court: Cross-examine.

Cross Examination

By Mr. DeMartini:

Q. Mr. Duarte, what do you understand the difference to be between an L-O Richfield station and an independent station?

A. Explain that again.

Q. What do you state is the difference between an L-O station and an independent Richfield station?

A. As far as I understand it, and L-O unit is a leased out Richfield station, and an independent station is that a dealer owns his building, his pumps, and the property. He is an independent dealer. An L-O unit, as far as I was con- [fol. 1362] cerned, was leased from a property owner, where Richfield wrote a long contract and, then, in turn, leased to a dealer, but Richfield held the main lease on it for 10 years, 20 years, whatever it was.

Q. What was the type of lease that Richfield executed with the dealer or operator in that situation? What was the termination privilege?

A. Of a dealer?

Q. Of an operator under an L-O lease.

A. 24 hours.

Q. Do you know the policy or practice of Richfield with respect to the termination of that lease? Under what circumstances it would act to terminate the 542 lease?

A. Yes.

Q. What were they?

A. The way we were told they had to keep the station neat, they had to pump the gallonage, that Richfield figured that they were paying so much rent for the property already and they had to get that gallonage up there. They would leave them there for a time, 30 or 90 days, whatever it was. If they didn't get the gallonage up and the station was running down, Richfield would ask us as the agents to terminate the lease and get a new operator.

Q. Now, what was your understanding of the type of paper that was executed at that time with the independent station? [fol. 1363] A. At that time, as far as I can remember, if we went to an independent station, and he wanted to change his products to Richfield, we would write a two-year lease, which was called a paint agreement—a paint agreement. And as long as Richfield painted that building, they were to buy Richfield products only. As long as Richfield painted the building, they couldn't buy any other products.

Q. I will show you Richfield's painting agreements, which are in evidence as plaintiff's Exhibit 5-A, the print of which is dated 8-37, and that which is in evidence as Plaintiff's Exhibit 5-C, and ask you whether those are the instruments to which you refer as the paint agreements.

Mr. Somerville: We will object to that line of interrogation, your Honor, on the ground it goes beyond the scope of the direct examination.

The Witness: I can't hear.

The Court: No, I think in view of the position this man had, it is proper to ask him that, to go into his knowledge of the difference between these agreements. Go ahead. You may answer.

The Witness: Are you talking to me, your Honor?

The Court: Go ahead.

Mr. DeMartini: Will you read the question, please?

(The question was read.)

[fol. 1364] The Witness: Now, answering your question, we would take the leases with our territorial salesman to the new account, and he would sign them.

By Mr. DeMartini:

Q. I am asking you—your answer is not responsive to my question, Mr. Duarte. You refer to paint agreements which were in the nature of leases, which were upon a minimum of two years. Are those the instruments to which you refer?

A. I don't remember this. I don't remember this.

Q. This is not the instrument to which you refer, then?

A. I don't remember that lease.

Q. You referred to this instrument as a lease?

A. So far as we were told by Richfield, it was a two-year lease, a painting agreement, a two-year lease. I am only trying to tell you what I was told.

Q. Do you know the terms of that instrument?

A. As far as I can remember, six years back or better, that was a painting agreement, and all I can tell you is this, that Richfield would preach to us this thing, that that painting agreement, while that station was painted Richfield colors, they asked us to tell the operator that while those Richfield colors were there and they spent money to paint it, that they shouldn't handle anything but Richfield products.

Q. Well, do you know the nature of the clause or agree-[fol. 1365] ment which gave Richfield the right to dispossess that so-called holder of the paint agreement from the premises?

A. I am telling you what our superiors told us to take over to the dealers.

Q. Then you don't know yourself the terms of that agreement?

A. As far as our positions were concerned, that is the agreement, and I knew that it ran from one to two years, and I don't believe it was more than two years, unless the operator wanted to sign for more than two years.

Q. Do you know the termination privileges that were contained in that agreement? Did you ever read one?

A. No, sir, I never.

Q. And that is the instrument that you refer to as being held by Mr. Koenen?

A. Mr. Koenen?

Q. Yes.

Mr. Somerville: I will object.
The Witness: I had a lot of stations like Mr. Koenen's.

By Mr. DeMartini:

Q. But you testified——
The Court: Ask him if it was that type.

Mr. DeMartini: All right.

By Mr. DeMartini:

Q. Is that the type of instrument?
A. That is the type, sir. It was an absolutely independent dealer, Richfield dealer, independent; not L-O units, inde-
[fol. 1366] pendent.
Q. And by "independent" you mean?
The Court: Talk about indoctrination. You certainly have the boys indoctrinated on the difference between an L-O unit and an independent.
The Witness: That is the difference, independent. He owned the station and he owned the property, and he was in business for himself. Richfield's L-O units, they worked for Richfield.
The Court: All right.

By Mr. DeMartini:

Q. But you don't know the terms of this instrument which gave us the right to dispossess?
A. Gave me the right through my boss, L. A. Wallace.
Q. Well, I will drop the further questions.
A. Well, maybe I am wrong, but I——

Mr. Somerville: That will be all.
The Court: Just wait a minute.

By Mr. DeMartini:

Q. Who in Richfield told you to dispossess this man or take possession of the station because he sold competitive oil?
A. Nobody told me to take possession of any station. You asked me. If they didn't do it the way Richfield wanted them to, they would cancel out the lease. That's what we

are talking about. We are talking about independent dealers now.

[fol. 1367] Q. Yes, independent dealers.

A. That they would cancel out his paint contract.

Q. They would cancel out his paint contract?

A. And he would be all through buying Richfield products.

Q. In other words, they would not dispossess him from the service station?

A. Oh yes, he would be through buying Richfield products in that particular station.

Q. But did Richfield acquire possession of that station?

A. No, because I would go along with the dealer, and I didn't want to lose it, because it would be out of my pocket, so we would patch things up and let it ride.

Q. By what right did Richfield itself acquire possession?

A. What right they had, I don't know. That's their business.

Q. Isn't it true, as a matter of fact, Mr. Duarte, that all of the independent dealers did handle competitive oils and TBA in your area?

A. Because Richfield couldn't stop them. They tried to.

Q. They tried to?

A. They tried to, but it didn't work.

[fol. 1368] Q. And all of the L-O's were forced to buy products exclusively?

A. 100 per cent Richfield approved products or we were told to check them out and get new dealers.

Mr. DeMartini: That is all.

Mr. Somerville: No redirect. Thank you, Mr. Duarte.

The Court: All right, Mr. Duarte. You may be excused.

(Witness excused.)

The Court: Call your next witness.

Mr. Somerville: The government's next witness is Mr. James Jones.

J. M. JONES, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct Examination

The Clerk: Will you state your name, please?
The Witness: J. M. Jones.
The Clerk: J. M. Jones?
The Witness: That's right.
The Clerk: Be seated, please.

By Mr. Somerville:

Q. What is your name, sir?
A. J. M. Jones.
[fol. 1369] Q. Where do you reside?
A. Arcadia.
Q. What business are you in?
A. Auto supplies.
Q. Calling your attention to the period, oh, back about in 1944, would you tell the court what your employment was, or what business you were in?
A. Well, in 1944 I was a commission agent in Merced for Richfield.
Q. Bulk plant commission agent?
A. Yes, sir.
Q. For what company?
A. Richfield.
Q. As a bulk plant commission agent, what area did you service?
A. Most of Merced County.
Q. Did that include sales of petroleum products to Richfield Service stations?
A. That is correct.
Q. Of all categories?
A. That's right.
Q. At that particular time were you also handling TBA products?
A. In a rather small way, yes.
Q. Was that under some arrangement with Richfield?
[fol. 1370] A. Well, it was not under any written agree-

ment or arrangement. It was an oral agreement to handle it.

Q. Were you required to handle only Richfield products at that time?

Mr. Paradise: I will object to the question as calling for the conclusion of the witness, and not the best evidence.

The Court: Yes. Sustained.

Mr. Paradise: He testified he has a written agreement.

Mr. Somerville: I withdraw that question.

By Mr. Somerville:

Q. Mr. Jones, during your period as a bulk plant agent in Merced, did you become familiar with the various types of agreements in use between Richfield and the service station operators?

A. I believe so. There are some I didn't see, I am sure.

Q. Do you know what we mean when we refer to a leased out station?

A. I believe so.

Q. You know what we mean when we refer to a dealer under a sales—337 sales contract or a 3-C deal?

A. Yes.

Q. Now, how long were you a commission agent in that area?

A. About 20 months.

Q. Thereafter did you operate any other bulk plant for [fol. 1371] Richfield?

A. No.

Q. Calling your attention to the period beginning about December, 1945, what was your business at that time?

A. I wasn't doing anything in the interim, until I came down here and went with Richfield as a TBA distributor.

Q. Now, did you have any written agreements with Richfield?

A. None.

Q. How long a period did you act as a TBA distributor?

A. Well, from December, 1945 until September of 1949.

Mr. Paradise: Will you speak a little louder, please Mr. Jones? We can't hear you over here.

The Witness: From December, 1945 to September of 1949.

The Court: Unless you are going to show this witness documents, I think it would be better if you would stay away from him, because then he will know he is not talking to you, but talking to the rest of us. I allowed you to stand near the other gentleman because he had difficulty in hearing. This witness seems to be all right.

By Mr. Somerville:

Q. I believe you testified that your arrangement with Richfield in this TBA distributorship was entirely oral?

A. That's correct.

Q. Who made that arrangement with you?

[fol. 1372] A. Well, originally it was made with Mr. Burgner.

Q. I suppose there were some conversations concerning this transaction?

A. That's correct.

Q. When did they occur?

A. Possibly in November of '45.

Q. Were there any other parties present?

A. Well, I believe Mr. East was there.

Q. Mr. East and Mr. Burgner?

A. That is correct.

Q. Can you tell the court what positions were held by them, what capacity they were in for Richfield?

Mr. Paradise: Why don't you ask him if they were employees?

By Mr. Somerville:

Q. Were they Richfield employees?

A. Yes.

Q. What capacity were they acting in, if you know?

A. Mr. Burgner was assistant division manager, and Mr. East, I believe they called him at the time special representative.

Q. They approached you with respect to handling a TBA distributorship?

A. No, I approached them.

Q. You approached them. At that particular time was it explained what the distributorship would cover, or what [fol. 1373] the terms of the arrangement would be?

A. Well, I assume so, yes.

Q. What was said concerning what products you should handle?

A. Well, they have what they call a TBA manual, and that was it. You were to handle that.

Q. Were those products described as authorized products?

A. Well, they wouldn't—that's right.

Q. Was there anything said at that time with respect to whom you should sell to?

A. Well, we were to sell everybody we could.

Q. Was there anything specifically said with respect to the Richfield service stations?

A. We were given a list of them, yes.

Q. Were those confined to a particular area?

A. That's correct.

Q. What was the area?

A. It was what was considered as the Hawthorne bulk plant area and the Santa Monica bulk plant area.

Q. Subsequently was there any change in your area?

A. Not that I recall.

Q. All during the period of your TBA distributorship you distributed in those areas?

A. Oh, no. I did change to the Pasadena area.

Q. What territory did you cover there?

[fol. 1374] A. Well, it would be what would be considered as the Pasadena bulk plant area, everything serviced by the Pasadena bulk plant.

Q. That would include San Gabriel, Alhambra, and Arcadia?

A. That is right.

Q. Going back to the original discussions with respect to your TBA distributorship, what, if anything, was said about your handling outside products directly competitive to approved products designated by Richfield?

Mr. Paradise: Objected to as immaterial.

The Court: Overruled.

The Witness: We weren't supposed to handle anything that would be competitive with a product that was in the TBA manual.

By Mr. Somerville:

Q. Was anything said at that time with respect to what products you would be permitted to sell to Richfield service stations?

A. I didn't quite get you.

Q. Was anything said in that original transaction about whether you could sell approved products or non-approved products to Richfield service stations?

A. We could sell as long as it didn't conflict.

Mr. Paradise: As long as what? I didn't hear that.

The Witness: That it did not conflict with an approved [fol. 1375] item.

By Mr. Somerville:

Q. What do you mean by that?

A. Well, a competitive oil filter or a competitive spark plug. We were to handle the Champion spark plugs, and that's all we were to handle. We were not to handle the A-C.

Q. Other spark plugs and oil filters would be directly competitive?

A. That's right.

The Court: Give us an illustration of a non-competitive item.

The Witness: Air gauges, air hoses, expendable supplies that weren't in the Richfield manual we could handle.

The Court: I see.

By Mr. Somerville:

Q. Do you mean, then, that those particular categories of automotive accessories were not approved or handled by Richfield, that is, there wasn't any equivalent product?

A. That's right.

Q. Now, with respect to those items directly competitive with the approved items, was there anything said with respect to whether or not you could handle those items or sell those items to the Richfield service stations?

A. Well, I can't recall any specific conversation on it, but it was strictly taboo though.

[fol. 1376] Mr. Paradise: I move the witness' answer commencing with "it was strictly taboo" be stricken.

The Court: Yes.

The Witness: Well, we were not supposed to handle anything that was competitive.

Mr. Paradise: I move that be stricken.

The Court: That may be stricken. The difficulty is that we have to know on what basis that supposition is grounded. You have to tell us who told you, and you have to give the names of the certain persons, and if you remember any conversation in which these men stressed that point, that is all right.

The Witness: Well, yes. In Pasadena I can recall an incident with Mr. East. At that time he had been promoted to assistant——

By Mr. Somerville:

Q. When did this occur?

A. Well, it would have been in '49. This Mr. East came out to our warehouse and saw some Fram filters in there, and asked us not to handle them.

Q. Were those Fram filters—or, what was the approved filter?

A. Purolator.

Q. At any time during your distributorship have there been any conversations with respect to whether or not Richfield stations were to handle approved products 100 per cent?

[fol. 1377] A. Well, they were supposed to, yes.

Mr. Paradise: I move——

By Mr. Somerville:

Q. My question was, was there any conversation?

The Court: Again we must go back to a conversation. You can say "Yes," if that is it, and then you can try to remember.

The Witness: Well, yes.

By Mr. Somerville:

Q. When, and with whom were those conversations?

A. Well, the conversations were probably more prevalent in the summer of '49 when Richfield had quite a contest on,

a sales contest, and there was lots of conversations regarding——

Q. With whom?

A. With the merchandisers, the various merchandisers.

Q. Who were some of them?

A. Mr. Hagins, Mr. Weir, Mr. Zimmerman, Mr. Bergman, who was the branch manager in Pasadena.

Q. In making sales of TBA products to Richfield service stations, did you distinguish between classes of stations, or did you sell them all?

A. We tried to sell them all.

Mr. Somerville: May I see Government's Exhibit 7, please?

(The document was handed to counsel.)

By Mr. Somerville:

Q. I hand you Government's Exhibit No. 7 entitled, [fol. 1378] "Richfield TBA Distributor's Monthly Report," and ask you, Mr. Jones, if you are familiar with that report.

A. I am.

Q. Would you tell the court what you were required to do, if anything, with respect to that report?

A. We would break it down by the invoice and fill the report out by station and by units, and send it to Richfield.

Q. Were you required to do that?

A. Yes.

Mr. Paradise: That calls for the conclusion of the witness, I think. Counsel's examination has been leading and suggestive. I haven't objected, but I think he should conduct the examination properly.

The Court: Objection sustained. I think it was justified with the other witness who had difficulty in hearing, but this man I think is all right, and I think you should direct his attention to specific items rather than to ask leading questions.

By Mr. Somerville:

Q. Did you fill out this report and report your sales?

A. Either myself or the girl who worked for me, yes.

Q. To whom did you report those sales?

A. I had to send them in to Mr. East.

The Court: How often?

[fol. 1379] The Witness: Once a month.

The Court: Once a month. All right.

By Mr. Somerville:

Q. Were there any situations in which discussions were held with anyone from Richfield concerning those reports?

A. Yes.

Q. What was the nature of those discussions, and with whom?

A. Well, it was usually with the merchandiser that had charge of a particular station, of trying to get the volume up in that particular unit.

Q. What were those discussions about?

A. Various ways of trying to get more volume out of them.

Q. Would your attention ever be called to any particular station whose sales were low,——

A. Yes.

Q. ——or would your attention ever be called to the fact that any station was handling competitive products, directly competitive with approved products?

A. It probably was, but it wasn't in my—I couldn't do anything about it. It would be up to the merchandiser to handle it from then on.

Q. What I am trying to get at, did the merchandisers contact you with respect to competitive situations at par-

[fol. 1380] ticular stations?

A. No.

Q. Did you work with the merchandisers in any manner?

A. Yes.

Q. In what manner?

A. Working with them, going out calling on the stations.

Q. Calling your attention to a service station operated by a man by the name of Bill Shaffer, do you recall that station?

A. Bill Shaffer, yes, sir.

Q. Is it a Richfield service station?

A. Yes, sir.

Q. Where is it located?

A. California and Wright, Pasadena.

Q. At any time were there any conversations concerning the competitive situation at that station?

A. No.

Q. I am talking about conversations with any representative of Richfield?

A. That's right.

Q. Did this operator purchase much TBA?

A. Not too much.

Q. Was anything ever said about that?

Mr. Paradise: I object to the question. He has denied conversations.

[fol. 1381] The Court: Overruled.

The Witness: Well, we had never had any conversations regarding competitive products in there, but——

By Mr. Somerville:

Q. Did you ever have any conversation regarding the low amount of sales?

A. Oh, yes.

Q. With whom were those conversations?

A. Mr. Weir, the merchandiser.

Q. When did those conversations occur?

A. Well, as I say, they were—the conversations were more prevalent in the summer of 1949 when this contest was on.

Q. What was said by Mr. Weir?

A. I can recall of one instance when Mr. Weir and I went down to the station and took quite a good-sized order from the man, and I couldn't deliver that size order because it was too much for the man to carry in the station. It was overstocking him. So I wrote phony invoices for part of it, to cover it, to enter on the 1079, I believe it was called.

Q. Concerning this contest, when did this contest occur?

A. If I recall, it was the four months of May, June, July, and August, of 1949.

Q. What was the nature of the contest?

[fol. 1382] Q. Well, it was a sales contest covering all petroleum items.

The Court: Competing against one another? You were competing against one another?

The Witness: No. It was a contest for the stations, to compete against one another.

The Court: Oh, the stations were competing.

The Witness: And also the company personnel were competing, too, in their own categories.

By Mr. Somerville:

Q. As a part of that contest do you know of any situations where a service station operator may have been forced to take products?

A. Oh, yes.

Mr. Paradise: That calls for the conclusion of the witness. I think we are entitled to an examination concerning the facts, your Honor.

Mr. Somerville: I will reframe that question.

By Mr. Somerville:

Q. Concerning that contest, did you make any special effort to sell Richfield service stations?

A. Oh, yes.

Q. Did you ever have a situation where you approached a service station and requested him to purchase additional quantities of TBA?

A. Yes.

[fol. 1383] Mr. Paradise: That is leading and suggestive, and also calls for hearsay.

The Court: It is merely——

By Mr. Somerville:

Q. Let's call your attention specifically to a service station in La Canada operated by Wallie McCoy. Are you familiar with that station?

A. I am.

Q. Is that a Richfield station?

A. That's right, but it is not in La Canada. It is on the corner of Orange Grove—let me see—and Lincoln.

Q. Do you recall any situation with respect to that service station in which any Richfield representative instructed you to demand that operator take certain products?

Mr. Paradise: That is leading and suggestive. Why doesn't counsel ask questions——

The Court: I think that is leading and suggestive. He may ask what he remembers about an individual. Do you remember specifically what you did in that case?

The Witness: The only thing I can remember in that particular case was a conversation between Wallie McCoy and myself.

The Court: Go ahead and tell us about that.

Mr. Paradise: Between whom?

The Witness: Between Wallie McCoy, who was the operator and myself.

[fol. 1384] Mr. Paradise: I object to that as hearsay.

The Court: Hearsay as to whom?

Mr. Paradise: The witness is talking about a conversation between him and this Mr. McCoy, who is a service station dealer.

The Court: That is certainly proper. He was acting in the capacity of a distributor, and his conversation following instructions is in the line of agency.

Mr. Paradise: Well, the nature of this man's employment or relationship with Richfield has not been shown. I would then object upon the ground of lack of foundation. This witness can't bind Richfield by any statement of his.

The Court: He can bind them to the extent that he is told to follow a policy and he follows it with regard to the station.

Mr. Paradise: But all that appears about this witness' qualifications, I submit to the court, is that he is a distributor, who is buying products on a purchase and sale basis.

The Court: That is right. The paper work is always perfect, regardless of the relationship. You have to get behind the paper work to find out what they actually did in all these cases. Otherwise, you might just put the paper before me and have me interpret it, and that would end the case. Overruled. Go ahead and tell the conversation [fol. 1385] with Mr. McCoy.

The Witness: It was when Mr. McCoy checked out of the station. I asked him why, and he said that he just had so

much merchandise, that he didn't have any operating capital, and it was forced on him in this contest.

The Court: All right.

Mr. Somerville: I think that will be all.

The Court: Cross-examine.

Cross examination.

By Mr. Paradise:

Q. Mr. Jones, are you familiar with the difference between the so-called L-O station and a dealer station?

A. I think so.

Q. What is an L-O station, as you understand it?

A. It is one that Richfield holds the master lease on, and a subsequent lease to an operator.

Q. What is a dealer station?

A. Well, they are usually signed on a paint contract, I believe.

Q. Have you ever seen the contract?

A. I believe so.

Q. Do you know whether there is in existence a sales contract with that dealer?

A. I have seen sales contracts, too, yes.

[fol. 1386] Q. The situations that you refer to as dealer stations are not stations in which Richfield either owns or leases?

A. You mean as an independent dealer?

Q. Yes.

A. That is correct.

Q. That is a station which is owned and controlled by the dealer himself?

A. It is controlled by him.

Q. Now, these stations that you mentioned,—Mr. Shaffer's station, was that an L-O station?

A. Yes.

Q. Or an independent station?

A. L-O.

Q. The Shaffer station was an L-O station?

A. That's right.

Q. The other station you mentioned, the one of Mr. Wallie McCoy, that you also had a conversation with, was that an L-O station?

A. That is correct.

Q. That also was an L-O station?

A. Right.

Q. During the time you were a TBA distributor, you sold TBA to both L-O stations and to independent stations?

A. That's right.

Q. Did you also sell TBA to service stations not handling [fol. 1387] any Richfield products at all?

A. Yes.

Q. You made a like effort to sell to all three types of stations?

A. That's right.

Q. You mentioned conversations with merchandisers. What were the names of those merchandisers again?

A. Well, Mr. Weir, Mr. Zimmerman, Mr. Hagins.

Q. Do you know the duties and functions of a merchandiser? Has that been explained to you?

A. I believe so.

Q. It is correct, is it not, Mr. Jones, that the merchandisers have connection with and have contact only with Richfield L-O stations?

A. That is my belief.

Q. And that they have no connection whatsoever with any so-called independent stations, that we have referred to?

A. That's right.

Q. So that all your conversations with these merchandisers related only to Richfield L-O stations?

A. With the merchandisers, that's right.

Mr. Paradise: That is all.

[fol. 1388] Redirect examination.

By Mr. Somerville:

Q. Mr. Jones, in the area which you serviced, did you at any time observe any service stations handling Richfield gasoline, handling any gasoline except on a 100 per cent basis?

Mr. Paradise: I object to that as improper redirect examination.

The Court: I will allow him to ask that. Overruled.

These witnesses are not available, and rather than call them back later on, where there is a question, I will allow it.

The Witness: What was the question?

(The question was read.)

The Witness: Not on gasoline.

By Mr. Somerville:

Q. What percentage of accounts other than those handling Richfield gasoline did you sell TBA to?

A. Well, I would guess 20, 25 per cent.

Q. Did you ever sell TBA to a Chevron station?

A. Yes.

Q. And you have sold TBA to a 3-C station?

A. That's right.

Q. And stations operating under a paint contract?

A. That's right.

Q. And a sales contract?

[fol. 1389] A. That's right.

Mr. Somerville: That is all.

The Court: Anything further, Mr. DeMartini?

Mr. DeMartini: No, sir.

The Court: Or Mr. Paradise?

Mr. Paradise: No, sir.

The Court: All right, sir. You may go about your business.

(Witness excused.)

The Court: Call your next witness.

Mr. Somerville: The government calls as its next witness Mr. Minor.

Wayne Minor, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination

The Clerk: Will you state your name, please?

The Witness: Wayne Minor.

The Clerk: Wayne Minor, —M-i-n-o-r?

The Witness: Right.

By Mr. Somerville:

Q. What was the name, sir?

A. Wayne Minor.

[fol. 1390] Q. Where do you reside?

A. Fresno.

Q. Calling your attention, Mr. Minor, to the year 1949, about September, what business or employment were you in at that time?

A. At what time?

Q. September, 1949.

A. I was with Richfield Oil Corporation.

Q. In what capacity were you employed with Richfield Oil Corporation?

A. As merchandiser.

Q. As merchandiser did your duties include supervision of service stations handling Richfield gasoline?

A. Yes, sir.

Q. What was the area in which those service stations were located?

A. Well, pretty much the entire area of the Central Division.

Q. Would you speak a little louder, please?

A. Pretty much the entire area of the Central Division.

Q. What is the Central Division?

A. I don't know the exact lines, but it is Fresno, and that area, the San Joaquin Valley, and to the coastal cities.

Q. Did you have supervision of service stations in the [fol. 1391] Sacramento area?

A. Yes.

Q. In the course of your duties, did you have anything to do with installing a new dealer in a service station?

A. Yes, I did.

Q. How many dealers would you say you installed during this period?

A. Oh, it would be difficult to hazard a guess.

Q. Quite a number, at any rate?

A. Quite a few, yes.

Q. At the time that a new dealer enters into a Richfield station, is anything said concerning what is expected of him with respect to petroleum products?

A. Oh, yes.

Q. The purchase and sale of petroleum products?

A. Yes, sir.

Q. What is said, or, what was said by you?

A. Well, he was told that he was expected to sell Richfield petroleum products.

Q. Was he also told he was expected to sell them on a 100 per cent basis?

A. Yes.

Q. With respect to an incoming operator, does the operator purchase the inventory of the outgoing operator?

A. Yes.

[fol. 1392] Q. That is, he makes an investment in the station?

A. That's right.

Mr. Paradise: What was that question?

By Mr. Somerville:

Q. Normally, what is the investment that the operator has in the station?

Mr. Paradise: That calls for the conclusion of the witness. I think we are entitled to the facts.

By Mr. Somerville:

Q. From your experience?

The Court: I think that calls for a fact. It calls for a round figure.

The Witness: The amount of value of an inventory on a dealer change would vary, oh, I would say, from $1,000 on up to $3,000 or perhaps $3500.

By Mr. Somerville:

Q. In the course of instructing a new dealer, have you said anything to any of those dealers that you have installed concerning the matter of including in their inventory at some future date competitive products for sale to any new operator, in the event he sells out?

A. Do you mean in the interview of a prospective new dealer?

Q. Well, let me break that down and make it a little simpler. At the time you install a new dealer, you usually

have an older dealer going out with some merchandise and a new dealer coming in?

A. That's right.

[fol. 1393] Q. Does the old dealer—is he required to sell his stock to the new dealer?

A. He is asked to, yes, sir.

Q. Do you include on the inventory, or, do you supervise that inventory?

A. Well, I assisted with the inventory, yes.

Q. Do you permit any products which are directly competitive, that is, a comparable item to any product either sold by Richfield or approved by Richfield, to be included on that inventory?

A. I have, yes.

Q. Have you instructed the new dealer, or have you had any conversation with the new dealer in installing him concerning whether or not he would be permitted to handle or sell competitive products to any new operator taking over the station at a subsequent date?

A. He was told that if he had any unapproved merchandise, that we could not assist him with placing a value on it, that he and the incoming dealer would have to work out their own deal, that we couldn't help them to place a value on this merchandise.

Q. What was the situation with respect to the approved merchandise?

A. Then, of course, we had price sheets, and we could help with placing a value on the merchandise.

[fol. 1394] Mr. Paradise: What was your answer? We can't hear over here.

The Court: Read the answer.

(The answer was read.)

By Mr. Somerville:

Q. Was the incoming operator free to accept or reject the approved items that the old operator had?

A. No, he was asked to take the approved merchandise.

Q. Subsequent to installing a dealer in a station, Mr. Minor, did you have any supervision over the stations? Did you make any periodic calls on them?

A. Oh, yes.

Q. In the course of calling on the dealers at these stations, would you observe whether competitive or non-approved items were in stock?

A. Yes, sir.

Q. Would you on any occasion call to the attention of the operator the fact that non-approved items were in stock?

A. Yes, sir.

The Court: What did you do about it? Tell us what you said to him.

The Witness: I would usually call it to his attention and try to point out where it would be to his advantage not to stock different merchandise at times.

[fol. 1395] By Mr. Somerville:

Q. Did you ever on any occasion require the dealer or request the dealer to dispose of competitive items?

A. I have asked him to try and sell it, to get his money out of the stock.

Q. And to replace it with approved items?

A. Yes.

Q. Now, who was your superior, in your capacity as merchandiser?

A. In Sacramento?

Q. Who was your boss?

A. In Sacramento?

Q. In Sacramento, yes.

A. That was Mr. J. F. Holland.

Q. Calling your attention to a service station at 57th and H,——

A. Yes.

Q. Do you recall that particular station?

A. Yes.

Q. Is that one handling Richfield gasoline?

A. That's right.

Q. Who was the operator there during December of 1949, or around in that period?

A. It was a Mr. Jennings.

Q. At any time have you had any conversation with Mr. [fol. 1396] Holland concerning competitive items at this station?

A. Only batteries, I believe.

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Q. With whom was that conversation?
A. With Mr. Holland.
Q. What was the conversation?
A. He called my attention to the fact that Mr. Jennings had some competitive batteries in the station.
Q. Did he instruct you to do anything about it?
A. He asked me to check on the matter.
Q. Did you check on the matter?
A. Yes.
Q. In your instructions from Mr. Holland was there anything ever said during the course of your employment with respect to Richfield's policy with respect to service stations handling Richfield's lubricating oils or outside competitive lubricating oils?
A. Yes, there was conversations along those lines.
Q. Who were those conversations with?
A. Mr. Holland.
Q. In those conversations what was explained as the policy of Richfield with respect to the handling of outside oils in service stations?

Mr. Paradise: Will you fix the time of these conversations, please?

By Mr. Somerville:

Q. Would you fix the time of this particular conversa-
[fol. 1397] tion, Mr. Minor, or can you fix it?
A. No, I can't recall the time.
The Court: It was in 1949, wasn't it?
The Witness: Yes, it was in the year of '49.
The Court: All right.

By Mr. Somerville:

Q. Did it occur more than once?
A. Oh, we had occasional pep talks, not about any particular product.
Q. What was the policy that was formulated or laid down to you?
A. They weren't in favor of it.
Q. Pardon?
A. They weren't in favor of it. My instructions were, if I may make a statement, to ask the dealers on some occa-

sions where they felt it was necessary to have a competitive oil, and my instructions were to ask them not to display it.

Q. Did you also interview prospective dealers of service stations?

A. Yes, sir.

Q. In the course of interviewing them, did you ever discuss the contents of the agreements that they would enter into?

A. That's right.

Q. Are you familiar with the form of lease agreement which Richfield has at their leased out stations?

[fol. 1398] A. I know what it looks like, but I have never read one.

Q. Do you know what provision it has for termination?

A. I—no.

Q. ——on a leased out station?

A. Not—I know there is a 24-hour termination clause.

Q. In the course of your interviews with prospects, was the 24-hour cancellation clause a part of the conversations?

A. Yes, sir.

Q. What would the dealer usually say?

A. Oh, ordinarily there was some comment, but it was explained to the dealer it was to his benefit, as well as our own.

Q. Normally, I am speaking—I am trying to establish whether or not there was any normal pattern here. Was it usual for a prospective dealer to inquire about the 24-hour clause?

A. There was never very much comment, because at the time I was a merchandiser for Richfield it was an established fact, I believe, that most service station contracts held that clause.

Mr. Paradise: I can't hear your answer.

The Court: Read the answer.

[fol. 1399] Mr. Paradise: It was an established fact——

(The balance of the answer was read.)

Mr. Paradise: I move that be stricken as the conclusion of the witness. May I move the last part of the witness' answer be stricken?

The Court: Well, unless you have seen them all, you are not in a position to tell us.

The Witness: I haven't seen all of them.
The Court: Do you know how many had that clause?
The Witness: No, sir.
The Court: All right.
Mr. Somerville: I think that will be all.
The Court: Cross-examine.
Mr. Paradise: Do you want the cross examination now, your Honor?
The Court: Yes. I didn't take a recess, to make up for my delay in getting on the bench. Of course, you gentlemen understand that I have other work to do. I have drawn quite a number of difficult problems on my Monday law and motion days, and I cannot freeze my other cases, so I have to work in between. I was in the middle of dictation this morning, and you know yourself how difficult it is to be interrupted. But we will make up for it this afternoon. Go ahead.

[fol. 1400] Cross examination.

By Mr. Paradise:

Q. Mr. Minor, when did you become a merchandiser?
A. In June of 1948.
Q. I can't hear you.
A. June of 1948. I am sorry.
Q. What were your duties as merchandiser?
A. My first duties as merchandiser was in the truck station department, assisting the dealers in getting orientated in the truck station, and in the general operation, in assisting him, I might say, in the truck station.
Q. Whom were you assisting?
A. The dealer.
Q. The dealer in a truck station?
A. Right.
Q. You were learning the operation of the station; is that right?
A. I was attempting to teach the dealer.
Q. Oh, you were teaching the dealer?
A. Right.
Q. And that was one of Richfield's truck stations; is that correct?
A. Yes.

Q. A station which Richfield owned?

A. That's right.

[fol. 1401] Q. Now, subsequent to that, what were your duties? How long were you in that truck station?

A. I was in the truck station department from June of 1948 until September of 1949, and then I was transferred to Sacramento, and my duties were branch merchandiser.

Q. From September of 1949 until when?

A. Until June of 1950.

Q. Now, during the period when you were a branch merchandiser in Sacramento, what were your duties as a branch merchandiser?

A. Basically the same as the duties in the truck station department, assisting the dealer, and general merchandising. I wore a uniform most of the time, and worked right in the station with the dealers.

Q. You received a salary from Richfield, did you?

A. Yes, sir.

Q. In either capacity, first, in the truck merchandising department, or subsequently as a branch merchandiser, you had nothing to do, did you, with either the 337 dealer accounts or the 3-C dealer accounts?

A. No, sir.

Q. Am I correct?

A. You are right.

Q. Are you familiar with those types of service stations?

A. No, sir.

[fol. 1402] Mr. Paradise: I am sorry, I can't hear you.

The Court: He said, "No, sir."

The Witness: No.

By Mr. Paradise:

Q. Those are not stations which Richfield owns or controls; is that correct?

A. That's correct.

Q. What instructions did you receive concerning your duties as merchandiser, and from whom?

A. I received instructions from the branch manager, who was Mr. Holland, to——

Q. That was when you first went to Sacramento?

A. Yes.

Q. Were those instructions oral or written?

A. Oral.

Q. What were those instructions?

A. To work with the stations in an attempt to sell more Richfield merchandise.

Q. Now, when you speak of these stations and the dealers, am I correct in assuming that you are speaking only of Richfield L-O stations?

A. Only.

Q. And only of the personnel operating Richfield L-O stations?

A. That is correct.

Q. And the testimony that you gave in answer to Mr. [fol. 1403] Somerville's questions had no relation whatsoever, as I understood it, to any 337 stations, or any 3-C stations, or to any of the dealers or operators in those stations?

A. That is correct.

Q. Now, as a part of your duties, did you interview prospective applicants or prospective operators for Richfield L-O stations?

A. Yes, sir.

Q. How did you come in contact with those people?

A. Through advertising and by personal solicitation.

Q. Did any of them come into the branch office and ask if any Richfield L-O stations were available?

A. Quite frequently.

Q. And you talked to them?

A. That's right.

Q. What were the matters that were discussed during these interviews?

A. Oh, Richfield products were discussed, and his advantages in being in a Richfield station, and cleanliness, and maintenance of the station was discussed.

Q. Before you discussed any of the details of the operation of the station, were you concerned with what sort of a person this particular applicant was?

A. That is true.

Mr. Somerville: I will object to that line of questions. [fol. 1404] It has no materiality here.

The Court: Overruled.

Mr. Somerville: And it is not within the scope of the direct examination.

The Court: Overruled. I am saying the same thing as before. If they want to draw some defensive matter out of the witness, I am not going to stop them, because these witnesses are not employees of the company now, not connected with the company, and we don't want to have to call them back for a few questions. Go ahead.

Mr. Paradise: What was the last question, please?

(The question and answer were read.)

By Mr. Paradise:

Q. What factors were you interested in, Mr. Minor?

A. The gentleman's character, and whether or not he had sufficient capital to operate a service station, and whether or not he could sell.

Q. Were you interested in his personal habits?

A. Yes, sir.

Q. For what reason?

A. Well, that lends to character, I believe.

Q. Were you interested in his family?

A. Yes.

Q. Or his reputation in the community?

A. That's right.

[fol. 1405] Q. Did you discuss those things with him?

A. Yes, sir.

Q. Now, what was told to this man—and when I say "this man," I would like to have you take a typical situation, and then tell me if that provided a pattern for your discussions with other applicants and other people with whom you had discussions as prospective operators for Richfield stations. What was told to this man as to the method or manner by which he would be permitted to operate a Richfield station?

A. That could take in quite a scope.

Q. Well, in your own words, supposing you tell us just about what you would tell a prospective operator, under these circumstances.

A. Well, he was told——

Q. And what you did tell him?

A. He was told that he was expected to keep the service

station clean, he was to keep it adequately stocked, and we requested him to operate sufficient hours to get his share of the business. What I mean by sufficient hours is an average of the hours of competitive stations in the area. He would be asked to stay open as long as the competition.

Q. You told him what hours to keep open, then?

A. He was to base that on the hours of operation of other stations in the area.

[fol. 1406] Q. Was anything told to him concerning the wearing of uniforms?

A. Yes, sir.

Q. What was told to him in that regard?

A. He was asked to wear a Richfield uniform.

Q. Was anything told to him concerning the display of signs on the station?

A. Yes, sir.

Q. What was told in that regard?

A. He was told not to post too many signs and, in fact, he was not to post signs in the windows other than the regular advertising material that went in the window occasionally. And I can't remember any particular instance other than window signs, that came to my attention.

Q. Was he told anything with respect to the service he should perform at the station and the manner of dealing with the members of the motoring public who came in to buy petroleum products?

A. He was to use the facilities at his disposal.

Q. Was he told anything about—I think you mentioned that you did discuss with him the term of the written lease that he was asked to sign if he wanted to operate the station, is that correct?

A. That is right.

Q. Mr. Minor, I show you a document which is called [fol. 1407] "Richfield Oil Corporation Service Station Lease." It is Government's Exhibit 1-G and bears a print date of, I think it is January 1949, and ask you if that is the instrument that you discussed with these prospective applicants?

A. Yes, sir; that is the lease.

Q. What did the discussion consist of concerning this form of lease, what matters were covered?

A. Well, the rental was usually covered first, because it was one of the first questions, and the term of lease was discussed.

Q. The term, by "term" you refer to this matter of the right of either Richfield or the operator to terminate it on 24 hours notice?

A. That is right.

Q. What statement did you make to this prospective operator in connection with that 24-hour clause?

A. He was told that if he didn't operate the station in a clean manner or if the station was being damaged recklessly, that he could be terminated.

Q. Isn't it correct that you told him that this 24-hour clause was for the purpose of Richfield's maintaining control over that station, and that if he did not operate the station in the manner in which Richfield—and probably through the merchandising department—told him to, that that 24-hour clause might be used for the purpose of evicting him?

[fol. 1408] A. That is right.

Q. Will you turn, Mr. Minor, to Schedule A that is attached to that form? Is there a schedule of several sheets attached to that form?

A. No, there isn't.

Mr. Paradise: Your Honor, at the opening of the trial Mr. Dixon left with the clerk as custodian a stipulation bearing this title: "STIPULATION RE INTRODUCTION OF CERTAIN EVIDENCE," (Paragraph 1 of Plaintiff's Subpoena dated February 7, 1951). May I ask that that be filed now, because we would like to refer to one of the instruments that is attached to it?

The Court: All right.

Mr. Dixon: Is counsel making this part of his case, Judge? I just want the record to be clear that if he is now——

The Court: Oh, no. We will give it a letter for identification and then he can take any document from it and offer it into evidence by designation. We will follow that method the same as we do with other bulky documents.

Mr. Dixon: I understand, Judge. The reason for my question was your Honor's ruling, and quite obviously——

The Court: Before, it was lodged, but I think we ought to begin now by taking the documents in. Evidently he has a document there which is not in the record, which he wants this witness to examine.

[fol. 1409] Mr. Dixon: That is my point, your Honor, that this cross examination obviously has gone way beyond the scope of the direct examination.

The Court: Naturally, it may be.

Mr. Dixon: And that he is actually his witness now.

The Court: That is permissible. That is all right. I am going to allow it in the case of these witnesses to a limited extent. I do not want a lopsided case. I remember once I got into a case tried by another judge who was taken ill, though not in this District, and I found that he had allowed nearly 200 exhibits to be brought in under the guise of cross examination. When it came to the defense, there was not any defense left. They had presented it all in that manner. That is a lopsided way. But, to a limited extent, I am going to allow this examination. At the present time let us give them a number or a letter. What is your next exhibit? What is your next exhibit for the defense?

Mr. Paradise: This will be the first defendant's exhibit.

The Court: The first one. Call it Defendant's Exhibit A for identification. That puts it in our custody, you see, and then you take from it what you want.

(The document referred to was marked Defendant's Exhibit A for identification.)

Mr. Paradise: I would like to have the stipulation itself, without the attachments to the stipulation, copied into the [fol. 1410] record, and then I use the particular instruments and offer those separately if I may, your Honor. I only expect to offer one instrument that is attached.

The Court: You want to offer the stipulation as a part of your case now? You see, the way we handle it, if you want the stipulation copied into the record, I will order it copied even though it is a part of an exhibit for identification.

Mr. Paradise: It was my understanding that a stipulation between counsel was not a matter to be offered into

evidence. I thought it was merely a part of the proceedings, but whatever your Honor's procedure is.

The Court: No. A stipulation, if it occurs at the trial, we give it an exhibit number, you see.

Mr. Paradise: I see. Then under those circumstances I would like to have the stipulation itself offered as Defendant's Exhibit 1 in evidence.

The Court: No. We will call that "A." Shall we call it "A-1" or shall we call it "B"?

The Clerk: It would be better to call it "B."

The Court: What?

The Clerk: "B" I think would be better.

The Court: All right. Then the whole exhibit is A for identification. Then we are beginning to take from it what is to go in. What we are taking from it is the stipulation which counsel is offering, the stipulation without the ex-
[fol. 1411] hibits, and that stipulation will be marked as Defendant's Exhibit B. Now, we have the record straight.

(The document referred to was marked Defendant's Exhibit B for identification.)

Mr. Paradise: Thank you, your Honor.

The Court: If this examination is going to be very lengthy, I think we had better take a recess now.

Mr. Paradise: Perhaps that would be best, your Honor. It will be somewhat lengthy.

The Court: All right. Then we had better take the recess until 2:00 o'clock.

(Whereupon a recess was taken until 2:00 p.m. of the same day, Thursday, May 10, 1951.)

[fol. 1412] Thursday, May 10, 1951. 2:00 p. m.

Mr. Paradise: Mr. Minor, will you resume the stand?

The Court: All right, Mr. Minor.

Wayne Minor (Recalled.)

Cross examination (Resumed.)

By Mr. Paradise:

Your Honor, I checked with the reporter during the noon hour and I think the present state of the record is that this

stipulation, together with Exhibits, is marked as Defendant's Exhibit A for identification, and that the stipulation alone is marked as Defendant's Exhibit B for identification.

The Court: That is right.

Mr. Paradise: I would like to offer into evidence Defendant's Exhibit A for identification.

Mr. Dixon: If the court please, the Government objects to the introduction of the stipulation into evidence, principally because an examination of this exhibit will show that it covers a multitude of other exhibits and no part of which are part of the Government's case. And we feel it is highly improper at this time for the defendant to offer as part of something which is obviously part of his case, something which comes out merely upon the cross examination of one of the Government's witnesses, and a very small part of this [fol. 1413] stipulation, namely only three documents, and the stipulation, your Honor will note, contains about 30 documents, relate at all to the matter. And we think that it is no part of the record insofar as the Government's case is concerned.

The Court: The stipulation merely relates to certain stated facts, and if they leave it as part of their case they may be lost on cross examination. As I said before, I am not going to have this case tried in a lopsided manner, but I can see no objection to allowing the stipulation in at the present time and I then will determine later which of the exhibits may go in. If counsel should go too far beyond the direct examination of this witness, I am going to stop him and have him call him back.

Mr. Dixon: Pardon, your Honor.

The Court: Yes.

Mr. Dixon: May I direct your Honor's attention to the contents of the stipulation, if you haven't seen it?

The Court: I saw it when it was first offered.

Mr. Dixon: I might say that the only document which I understand counsel wants to examine this witness with reference to is forms 542-A, -B, and -C, which are a part of the Government's—that is, the appendix.

The Court: I have seen them. The objection is overruled. Let us go on. All right, let us go on.

[fol. 1414] Mr. Dixon: May I just have one other word, your Honor?

The Court: Yes.

Mr. Dixon: May the record show the Government objects to this exhibit being made a part of the Government's case in chief?

The Court: It is not made a part of the Government's case in chief. You overlook the fact that a defendant has a right to introduce a part of his case through cross examination.

Mr. Dixon: That is correct.

The Court: Supposing you should fall down on your order of proof and they should decide to rely upon the weakness of your own case and upon the interpretation on the evidence. They have a right to do so. You don't have to put them to the proof.

Mr. Dixon: We understand that, your Honor.

The Court: All right.

Mr. Paradise: One further matter, your Honor: The clerk informs me that he understood your Honor's order to admit Exhibit B in evidence. It was Exhibit A that I had offered, the entire stipulation.

The Court: Yes, all right.

(The document referred to was marked Defendant's Exhibit A and received in evidence.)

By Mr. Paradise:

Q. Mr. Minor, I call to your attention four blue pages which are attached to Defendant's Exhibit A and marked respectively Forms 542-A, -B, -C, and -D, and ask you if [fol. 1415] you are familiar with these documents and whether you have used them?

A. Yes, I have used them.

Mr. Paradise: I have a copy of such instruments for the court's use in case you want to follow the examination.

The Court: All right.

By Mr. Paradise:

Q. What use and for what purpose are these documents put, Mr. Minor?

A. Those are used in changing over from one dealer to another, where one dealer buys out another dealer, in de-

termining whether or not the merchandise owned—or not merchandise, but equipment owned by the company is intact, and it is made a part of the lease the new dealer has made and is held responsible for.

Q. This is used as an exhibit and a schedule to the 542-Form that the new L-O dealer signs when he is installed, is that correct?

A. That is correct.

Q. What is the nature of the equipment that is listed in these schedules? Who owns this equipment?

A. That is company-owned equipment.

Mr. Somerville: If your Honor please, I object to that question. It calls for a conclusion of the witness, also——

The Court: Well, overruled.

By Mr. Paradise:

Q. Is this equipment installed in the service station at [fol. 1416] the time this lease is signed?

A. That is correct.

Q. It is presently in existence?

A. That is correct.

Q. At the time of your discussion with this applicant for an L-O station is there discussion of the amount and nature of Richfield property?

A. That is right.

Mr. Somerville: Well, I think that that, counsel, is going far beyond the scope of the direct examination.

The Court: Yes, I will sustain the objection. I want to limit this cross examination to such things which this man may have discussed with the particular man, but not to go to his entire knowledge. You will have to bring him back as your own witness if you want to do that.

Mr. Paradise: I thought, if the court please, that this was along the same line as the counsel's examination this morning.

The Court: No, it is not, I am sorry to say.

By Mr. Paradise:

Q. Mr. Minor, you testified this morning to an investment of the L-O operator which is discussed with him at

the time he makes an application for a station, is that correct?

A. That is correct.

Q. What is the amount of the investment you mentioned?

[fol. 1417] A. I believe I said that the investment varies.

The Court: From one to three thousand, didn't you?

The Witness: That is right.

The Court: The value of his inventory.

[fol. 1418] By Mr. Paradise:

Q. Now, was there discussion between you and the applicant of this station as to what that $1,000 to $3,000 represents, and what it was to be used for?

A. Yes.

Q. Will you please state what you said in that regard?

A. The investment is determined by the amount of resale merchandise, and such small equipment as is necessary for the operation of this service station.

Q. Do I understand this one to three thousand to represent petroleum products plus equipment?

A. Plus equipment owned by the former dealer, that's right.

Q. What is the nature of that equipment you were talking about?

A. Small tools, battery chargers, and lubrication equipment.

Q. Those are all items of movable equipment?

A. That's right.

Q. Have you installed operators or L-O dealers who have been applicants?

A. Yes.

Q. What have you done in connection with your installation of them? Perhaps that question isn't clear. Have you informed them at the time of the installation of the manner in which Richfield expected them to operate the [fol. 1419] station?

A. Yes, sir.

Q. Will you state what you tell them in that regard?

A. I told the dealers that they were supposed to operate the station in a clean and orderly manner, and that they were to wear a uniform, and it was recommended that they

stay open, they operate enough hours to get the maximum business.

Q. Did you spend then any time with them at the time they were installed?

A. Yes.

Q. How long?

A. That time varies. Perhaps one day, perhaps three or four days.

Q. What causes the variance between the time?

A. A few dealers have had a lot of service station experience, where others haven't.

Mr. Paradise: For purposes of identification in the record, your Honor, attached to this stipulation, which is Defendant's Exhibit A, are several sections. Section 1-A is an index of certain forms, giving on the left side the form number, and on the right side the form title. I am going to call the witness' attention to the last six forms in that schedule.

The Court: All right.

[fol. 1420] Mr. Paradise: Do you have copies of that, Mr. Dixon?

Mr. Dixon: Yes.

By Mr. Paradise:

Q. Mr. Minor, I show you these six forms, the first one of which is entitled "Richfield Oil Corporation Dealer Franchise Application," and then follows five other forms, some mimeographed and one printed, and I will ask you if you have used any of those in connection with your interviewing of prospective applicants for Richfield L-O stations?

Mr. Somerville: We will object to that. Counsel is obviously going into the defense here, and not limiting the examination to the scope of the direct, which was concerned with the products sold, and relating to the instructions given to the dealers with respect to the merchandise they should handle.

Mr. Paradise: This is a matter counsel went into this morning, as to the original discussion with the applicants.

Mr. Somerville: That testimony was with respect to the arrangements, the total arrangements between the dealers and Richfield.

The Court: Of course, he did not limit himself to discussions he had as to products. He spoke of general discussions he had as to the manner of the conduct of the business and the violation of any such which might result in the cancellation of the arrangement. So it may well be that you [fol. 1421] wanted to bring out only certain things, but, of course, it is a part of the conversation, and he is entitled to all of it, no matter where it may lead. Overruled.

The Witness: I used on occasion the mimeographed form of the Application for Employment, and also on occasion the printed copy, the printed form of the Application for Employment, merely to obtain information.

By Mr. Paradise:

Q. Those particular forms are the fifth and sixth, or the last two forms in that category which is before Section 1-B in the stipulation; is that correct?

A. That is right.

Q. In using those forms, the information that you included on those forms is the same information that you mentioned this morning, matters with respect to his character, and references, and past employment, and so on?

A. That is correct.

Q. Following the installation of this man in the station, Mr. Minor, did you thereafter visit the station on occasion?

A. Yes.

Q. I think that in answer to Mr. Somerville's question, you stated that on visits of that nature you observed whether or not competitive TBA was located at the station?

A. That's right.

Q. Did you also attempt to observe whether competitive [fol. 1422] lube oils or greases were located at the station?

A. Right.

Q. How often would you make those visits?

A. There was no schedule, but each station was visited at least once a week.

Q. How many stations were there in your territory?

A. 13.

Q. 13?

A. Right.

Q. That was in and about Sacramento?

A. The city of Sacramento.

Q. On those occasions would you discuss*ion* with the operator matters concerning the operation of the station?

A. Yes.

Q. I show you, Mr. Minor, a printed form entitled or with the title of "Survey of Service Station Operations," and designated as form No. 205, and ask you to state what that is, if you know.

A. Well, that is a survey of the general operating conditions at a service station.

Mr. Paradise: May I ask that this be marked as Defendant's Exhibit C, for identification?

The Court: All right.

(The document referred to was marked Defendant's Exhibit C, for identification.)

[fol. 1423] Mr. Paradise: I might state that this Defendant's Exhibit C, for identification, is one of the items called for by the government's subpoena duces tecum, item No. 25.

Mr. Dixon: Is it contained in the stipulation, counsel?

Mr. Paradise: The stipulation that was just filed?

Mr. Dixon: Yes.

Mr. Paradise: No. I said this was called for by item No. 25 in the subpoena.

Mr. Dixon: There was a tremendous amount of material called for in the subpoena, your Honor, that we do not intend to burden the record with in this case.

The Court: That is all right.

By Mr. Paradise:

Q. What use have you made of this form, Mr. Minor, in connection with these inspections of the L-O service stations?

A. I have used it as a—you mean, have I prepared it, or——

Q. No, have you used it in any way?

A. I have used it, yes.

Q. On what occasions? I will strike that. Was your use of it made at regular intervals with each L-O station?

A. That is correct.

Q. And at how frequent intervals?

A. Oh, at least once every 60 days.

Q. Will you describe the manner in which it was used?

[fol. 1424] A. It was used as more or less a record of progress in the operation of the station, and also something in writing to point to the dealer where his weaknesses were.

Q. Was this form filled out by you?

A. Yes.

Q. Each of the items that are listed on both columns of the form?

A. That's right.

Q. Will you state what these symbols at the top of the columns represent, "S U C" and "TBC"?

A. "S" signified it was satisfactory. "U" was unsatisfactory. "C", corrected. "TBC" is "To Be Corrected."

Q. Now, was that form filled out by you as you have mentioned every 60 days? Was it filled out by you alone or in the company of the L-O operator?

Mr. Somerville: Your Honor please, I think we will have to object to this line of interrogation.

The Court: Yes. The objection is sustained.

Mr. Paradise: I will offer the exhibit in evidence, if the court please.

Mr. Somerville: We object to the introduction in evidence on the ground it is beyond the scope of the direct.

The Court: It is merely a form they used in evaluating the value of the performance. Overruled.

(The document, heretofore marked Defendant's Exhibit C, for identification, was received in evidence.)

[fol. 1425] Mr. Paradise: No further questions.

The Court: Any redirect?

Mr. Somerville: Yes.

Redirect Examination

By Mr. Somerville:

Q. You testified, Mr. Minor, concerning the investment that is required by the dealer. Now, in addition to that, did you instruct the dealer with respect to the amount of stock that he should maintain at the station?

A. I recommended an inventory, yes.

Q. What products did you recommend that he handle in respect to TBA?

A. Richfield products.

Q. Did you inform him where he should purchase those products?

A. Yes.

Q. Where was that?

A. From the TBA distributor.

Q. And were those products described as authorized products?

A. Yes.

Q. Does the operator or did the operator pay cash for those items?

A. As far as I know.

[fol. 1426] Q. Did he purchase his gasoline and oil for cash?

A. The gasoline and oil were cash, yes.

Q. With respect to the stock of TBA that he should handle, did you recommend any particular amount or any particular items of TBA that he should handle?

A. Yes.

Q. What was the basis of your recommendation, that is, how much would you recommend that particular dealer should handle?

A. Well, it had been determined by my superiors what constituted a balanced inventory, a balanced stock of merchandise.

Q. In the normal situation, how much of an investment was required for a balanced stock of authorized products?

A. I can't remember any specific value.

Q. What determined the amount that he would stock?

A. The general needs, the general sales in a service station.

Q. In your instructions when you were told—did you have any instructions? I believe you did testify that you had instructions concerning this from your superiors?

A. That is correct.

Q. As a part of those instructions were you told that the operator should maintain this balanced stock to carry his burden of the operation?

A. That is correct.

[fol. 1427] Q. Who furnished the uniforms, Mr. Minor, for the dealer, that is, who paid for them?

A. The dealer.

Q. Did you determine or direct the number of hours that the operator should work?

A. Not the hours that he should work, but the hours that the station should remain open.

Q. If that required additional help, who paid for additional help?

A. The dealer did.

Q. The dealer did? And in some instances were stations directed to be open 24 hours?

A. None within my supervision.

Mr. Somerville: May I have Government's Exhibit 1-G?

Mr. Paradise: Which exhibit, Mr. Somerville?

Mr. Somerville: 1-G.

Q. Calling your attention, sir, to the paragraph, to the heading "rent" with the blanks for each month as for a rental to be inserted, in your dealings with the operators was a minimum rental fixed with respect to that portion of the lease?

A. Yes.

Q. There was never any instance where rentals were not fixed in the lease?

A. I don't believe so.

Q. Who determines those rentals?

[fol. 1428] A. My superiors.

Q. Thank you. One more question: Did your supervision include the dealer type station, that is, other than leased out stations?

A. Leased out stations only.

Q. None of your work was concerned with the dealer type of stations?

A. No.

Q. You did not assist them in their sales operations?

A. No.

Mr. Somerville: Thank you.

Mr. Paradise: Had you finished, Mr. Somerville?

Mr. Somerville: Yes.

Recross Examination

By Mr. Paradise:

Q. Mr. Minor, again with respect to that investment of one to three thousand dollars, at the time that was discussed between you and this prospective applicant or these successive applicants was any discussion made at the same time of the amount of Richfield's investment in the property?

A. Yes.

Q. Will you state what was said in that regard?

Mr. Somerville: We will object to that. That goes into the same matter which counsel has attempted to go into before and beyond the scope of the direct.

[fol. 1429] Mr. Paradise: I do not see how counsel can get a part of the conversation in and then exclude the balance of it.

The Court: Let us see if he knows. I doubt if he knows how much Richfield had. Go ahead.

A. Well, I never had any knowledge of the exact amount of——

The Court: No.

A. ——value that was in a property or a station.

The Court: All right.

By Mr. Paradise:

Q. Did you make any statement concerning investment?

The Court: The same thing.

Mr. Paradise: Calling for conversation.

The Court: Go ahead. Conclusion.

Mr. Paradise: I do not believe so, your Honor. I am asking for what he discussed.

The Court: Go ahead.

A. I made no attempt to tell the man what the investment was, but I did infer that there was considerable investment.

The Court: That you had a stake in the investment, I mean Richfield had, isn't that it?

The Witness: Yes.

Mr. Paradise: That is all.

The Court: Go ahead, call your next witness.

Mr. Somerville: The Government wants as its next wit-
[fol. 1430] ness Mr. Radke.

Gustav Daniel Radke, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: Will you state your name, please?

The Witness: Gustav Daniel Radke.

Direct Examination

By Mr. Somerville:

Q. Would state your name for the court, sir?

A. Gustav Daniel Radke.

Q. Where do you reside, Mr. Radke?

A. Portland, Oregon.

Q. And at the present time what is your occupation or business?

A. Motel owner.

Q. Have you at any time operated a Richfield service station?

A. Yes.

Q. Would you tell the court the approximate period of time that you were operating the station?

A. From October 1st, 1943 to October 31st, 1948.

Q. Mr. Radke, you are familiar with the type of arrangement you had with Richfield. Did you have a written agreement with Richfield?

A. Yes.

[fol. 1431] Q. Was that a lease agreement?

A. Yes.

Mr. Somerville: Would counsel stipulate that this particular station during this period was a leased out station?

Mr. DeMartini: Yes, sir. So stipulated.

By Mr. Somerville:

Q. Mr. Radke, I hand you a lease agreement dated October 1, 1943, between Richfield Oil Corporation as lessor and

Gustav D. Radke as lessee, which is on printed form 542, print date 9-41, and which, for the record, is Government's Exhibit 1-D, and I ask you, Mr. Radke, is that the agreement that you executed with Richfield?

A. Yes.

Q. And I show you a form, the same form 542 with the exception of the print date which is June 1943, and dated November 30, 1944, between you and Richfield. Is that document also a lease that you had with Richfield?

A. Yes, it is.

Q. You are familiar with the terms of this lease, aren't you?

A. Yes.

Q. Is there anything, to your knowledge, in these leases concerning purchase and sale of gasoline or any products?

A. Well, particularly I was aware of the fact that I was expected to buy petroleum products chiefly and exclusively. [fol. 1432] Q. Let us establish this with reference to time and place and parties present. If you will permit me, Mr. Radke, I will ask you a few questions here without reference to the lease. When you took over the station were there any verbal instructions or conversations with any representative of Richfield Oil Corporation concerning the purchase and sale and handling of any products?

A. Yes, the merchandiser.

Q. And who was the merchandiser?

A. A Mr. Fred Heikel.

Q. Mr. Heikel came to you, I presume, at the time that you entered into the station?

A. Yes.

Q. And he turned over the premises to you, did he?

A. Yes.

Q. With respect to petroleum products what was said, if anything, with respect to what was required of you in the operation of that station on the purchase and sale of petroleum products?

A. Well, perhaps nothing in particular, only in general it was explained that we were to handle our oils, our gasolines and greases were——

Mr. DeMartini: Will you speak louder, Mr. Radke, please?

The Witness: Sir?

Mr. DeMartini: Will you speak louder, please?

[fol. 1433] A. That we were given to understand, or I was given to understand that I was expected to buy gasolines and oils and greases exclusively from Richfield.

By Mr. Somerville:

Q. Was it a part of that understanding that you buy all of your gasoline, oils and greases from Richfield?

A. Yes.

Q. And you accepted and agreed to that?

A. I did.

Q. And at that time was Richfield in the business of supplying TBA products?

A. Perhaps I should say in a limited way, because of the shortage of commodities on the market.

Q. Now, at any time—not with strict regard to the time that you were installed in the station—but at any time thereafter did any Richfield representatives approach you with respect to a TBA program or any understanding with respect to the handling or the sale or the purchasing of TBA or automotive accessories? What we mean by TBA, you understand that?

A. Yes. Yes, a Mr. Parish and a Mr. Lelland I remember specifically.

Q. Who were those gentlemen, Mr. Radke?

A. Well, they were subsequently—subsequent to Mr. Heikel's time they were the merchandisers.

[fol. 1434] Q. How long after you were installed in the station did these men approach you with respect to any TBA program?

A. Well, I should perhaps say it might have been a year and a half after I was installed there in that station that they spoke to me about that.

Q. And at that time what did they explain to you or tell you about any TBA program sponsored by Richfield?

A. Well, they explained that Richfield Oil Company had a hookup, a TBA hookup with the Goodyear Company and that they were to go into the merchandising of tires, batteries and accessories in an extensive way, and that we were expected to cooperate.

Q. And by "expected to cooperate" what did they mean by that? Will you elaborate?

Mr. Paradise: I object to the question.
The Court: Overruled:

A. As to what they expected, we understood, of course, or I understood that it was natural that when they entered into a proposition like that and presented it to us, it was just on the same—on a par with the other, for instance, petroleum products, that we were expected to sell.

By Mr. Somerville:

Q. Were you told where you should buy these products?
A. Yes.
Q. Where was that, Mr. Radke?
A. Well, it so happens that my own brother was ap- [fol. 1435] pointed the TBA distributor there and I was to —and naturally I would, anyway—buy from him.
Q. Were these products described as authorized products?
A. Yes.
Q. Subsequently, after these original instructions or understandings that you have described, was there any further attempt or was there any further supervision of your station or any supervision of the station, I should say, concerning what you were handling?
A. Yes. The merchandisers, of course, were in and out there and kept a sort of a close eye on what we had, or what I had, and pointed out at times that we better sell out what we had and not get any more of that.
Q. Who was the merchandiser that would tell you that sort of thing?
A. Well, I think I mentioned Mr. Parish that I remember distinctly, and Mr. Lelland, who were very scrupulous in that way, that is, they were on the job.
Q. One thing I neglected to bring out here, Mr. Radke. Where was your station located?
A. At 1205 Northeast Sandy Boulevard, Portland.
Q. Was there anything particular about the location of that station with relation to other stations that demanded any extra supervision?

Mr. DeMartini: I object to that as vague and ambiguous, [fol. 1436] your Honor.

Mr. Somerville: I withdraw the question. It might confuse the witness.

Q. Do you have any knowledge of any meetings of merchandisers or other officials concerning the TBA program or the matter of what the service stations should handle?

A. Yes. I was in an exceptional, you might say, predicament or position there. It just so happened that Richfield Oil Company had the merchandisers' sales force meet, not in the same office, but under the same roof in another room as my station was and, of course, the merchandisers met there every morning and oftentimes prospective applicants and other operators would come there to interview the merchandisers, and it was contended that it didn't look good for me to handle other merchandise.

Q. At any time did you handle any non-approved items? When I speak of "non-approved" I speak in the sense of a competitive item which is similar to a particular item approved by Richfield. For example, a Champion spark plug, an equivalent item would be an A-C spark plug. On items like that which were directly competitive did you in some instances handle any outside products?

A. Yes, I did.

Q. Can you mention any particular instance in which you did?

[fol. 1437] A. I handled seat covers that were competitive in quite a large way, and oil filters and, to some extent, spark plugs.

Q. Were these seat covers included in the approved category of Richfield during the time you purchased them?

A. No. They had no seat cover supply, that is, sufficient to supply the dealers, and I went out and bought them where I could.

Q. And subsequently did they get a supply of seat covers?

A. Yes.

Q. Which were approved?

A. Yes.

Q. With respect to these items did it ever occur a situation in which your attention was called by Richfield representatives to the fact that you were handling them?

A. Yes.

Q. When did that occur?

A. Well, of course as to day and date, I couldn't say, but it did happen, and repeatedly, as I said before, it was pointed out to me that I ought to get rid of them and handle nothing but Goodyear seat covers.

Q. Were the competitive oil filters or competitive seat covers comparable to the items supplied by Richfield?

A. Well, they may have been comparable, but I didn't [fol. 1438] have a wide enough selection to supply my trade.

Q. In other words, did you have a demand for these items?

A. Yes, yes.

Q. Calling your attention now to the matter of competitive lubricating oils, did you ever handle any competitive oils?

A. Yes.

Q. What did you handle?

A. I handled Pennzoil and Quaker State.

Q. Did you ever have any difficulty with respect to handling those products?

A. Yes. I had the embarrassing occasion at times of having had it unloaded there when I didn't have time to put it away out of sight.

Q. What would happen when that occurred?

A. Oh, I would probably be told that "You better not do that again," and "Better put it out of sight," or something like that.

Q. Thereafter did you permit that situation to happen again?

A. And I still kept getting it, but I was a little more careful about how I displayed it.

[fol. 1439] Q. You did keep it away?

A. I kept it hid all the time.

Q. By the way, did you have one of those Pennzoil or Quaker State signs out in front of your station?

A. No, I never did have.

Q. Did you have many calls for this outside oil?

A. Yes, quite a bit.

Q. Let's go to the end of your tenure. It did end, didn't it?

A. Yes.

Q. At the time you sold out, did you have a considerable amount of merchandise available?

A. Yes, I had around $2100 worth of merchandise.

Q. What was your investment, sir, when you first took over the station?

A. The investment in merchandise and whatever tools and equipment I took in was around $1800.

The Court: What was your investment in the merchandise?

The Witness: At that time, in 1943, I don't just remember. It wasn't very much. I can't specify.

The Court: The stock was increased after you took it over?

The Witness: Yes; yes.

By Mr. Somerville:

Q. What was your investment, sir, at the time you were getting out of the station?

A. Altogether I sold out for $3800.

[fol. 1440] Q. At that time, Mr. Radke, did you have any competitive items in your inventory?

A. Yes, I had quite a variety of competitive items at that time.

Q. What are you referring to,—seat covers or——

A. Seat covers, and spark plugs, and filters, and tire paint, and car wash, and numerous other items.

Q. Were all those items competitive to some item that was specifically approved by Richfield?

A. Yes.

Q. In selling out to the new operator, did you experience any difficulty with respect to the sale of these items?

A. Yes, I had quite a bit of difficulty. The merchandiser at that time, Mr. Harold Graves, he objected to the new incoming buyers taking over, especially the seat covers. They were not Goodyear seat covers.

Q. Did you nevertheless attempt to sell them?

A. Well, we had quite a battle, but I won out on the seat cover end.

Q. Was that a transaction that was finally approved by him, or did you do it strictly with the new operator?

A. Well, it was approved, of course, by both. It was purely a compromise more or less. I took other items that I still have that were competitive. I sort of compromised and took them, or, rather, I kept them.

[fol. 1441] Q. You still have them?

A. I still have them, yes.

Mr. Somerville: I think that is all.

The Court: Cross examine.

Cross Examination

By Mr. DeMartini:

Q. Attached to the two instruments shown to you, Mr. Radke, the lease dated November 30, 1944, and the one dated October, 1943, there is an exhibit which is marked, "Description of Real Property, Buildings and Improvements, Retail Equipment." Those represent the items which Richfield leased to you, do they not?

A. That's right.

Q. Were you aware of the fact that these instruments were terminable by either party on 24 hours' notice?

A. Yes.

Mr. DeMartini: That is all.

The Court: You may be excused.

(Witness excused.)

The Court: Call the next witness.

Mr. Hall: Mr. William Moldenhauer.

[fol. 1442] William E. Moldenhauer called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct Examination

The Clerk: Will you state your name, please?

The Witness: William E. Moldenhauer, M-o-l-d-e-n-h-a-u-e-r.

By Mr. Hall:

Q. I can't hear you, Mr. Witness.
A. William E. Moldenhauer.
Q. Mr. Moldenhauer, where do you reside?
A. Well, my address is at Poulsbo, Washington.
Q. Is that near Bremerton, Washington?
A. Yes, that is north of Bremerton.
Q. You are presently employed by the Government in Bremerton, Washington?
A. Yes, sir.
The Court: In the Navy Yard?
The Witness: That's right, yes, sir.

By Mr. Hall:

Q. On or about the month of June, 1947, did you and your brother, Clarence B. Moldenhauer, enter into a lease arrangement for the occupation and operation of a Richfield service station in Bremerton?
A. We did.
[fol. 1443] Q. What was the address of that service station?
A. 1501 Fourth Street.
Q. Was that West Fourth Street?
A. No, just Fourth Street.
Q. Just Fourth Street?
A. That's right.
Q. In Bremerton, Washington?
A. That's right.
Q. Whom did you first speak with relative to obtaining this station?
A. The bulk plant agent, Mr. Baxter.
Q. Mr. William Baxter?
A. That's right.
Q. He was the Richfield commission bulk plant agent?
A. That's right.
Q. Did he also handle and sell TBA?
A. He did.
Q. You talked this matter over with him?
A. We did.
Q. What was the result of that conversation?
A. Well, there wasn't too much to the conversation. He

was looking for somebody for a station, and we were looking for a station, so it was quite simple. He checked our references, and that was about it. We took over the station.

Q. That is the station that you have given the address [fol. 1444] of on Fourth Street?

A. That's right.

Q. At that time did Mr. Baxter, that is, just prior to your signing the lease, did Mr. Baxter make any statements to you about the operation of the station or the products that were to be handled there?

A. Yes, just before we signed the lease, Mr. Baxter, and the merchandiser, and the TBA man, there was three of them,——

Q. I am talking about the conversation previous to that.

A. Well, no; no, there wasn't.

Q. Nothing was said at that time?

A. No.

Q. Then, as I understand, later on the merchandiser and another gentleman came over from Seattle?

A. That's right.

Q. What were their names?

A. One man's name was, I believe it was Esplin, and the other one, I knew it the other day and I have forgotten it.

Q. Was it a John Knutson?

A. That's right, Johnnie Knutson.

Q. And they came from the Seattle division office?

A. That's right.

[fol. 1445] Q. Were they the two representatives of Richfield that checked you in?

A. They were.

Q. And was Mr. Baxter present?

A. He was part of the time.

Q. Will you tell what conversation you had with any one of those men relative to the products that you were to handle?

A. Well, there wasn't too much conversation at that particular time either. All that was said was that we were expected to carry their—all of their Richfield products.

Q. Who told that you? Do you recall?

A. I don't recall whether it was Johnnie Knutson or Mr. Esplin.

Q. But one said you were expected to carry all of the Richfield products?

The Court: Don't repeat the answer. Strike that out.

Mr. Hall: I was just trying to clear it up in my own mind.

The Court: It is clear enough. You asked him a simple question, and he answered it. You repeat the answer and the witness does not know whether it is a new question. It isn't necessary to repeat it.

By Mr. Hall:

Q. Did you at that time execute the lease?

[fol. 1446] A. We did.

Q. Was that on the Richfield lease Form 542?

A. I don't remember the form number.

Q. Was it a blue form?

A. Yes.

Mr. Hall: Do counsel want to stipulate that as at the time that he entered into the lease——

Mr. Paradise: To answer your question, Mr. Hall, we will be glad to stipulate as to the date and the form number of the lease.

Mr. Hall: Your Honor please, counsel will stipulate that Form 1-E, Government's Exhibit 1-E, will be considered as the lease which was executed.

The Court: 1-E. All right.

Mr. Paradise: Will you state the date of the lease for the record, Mr. Hall?

Mr. Hall: I will have to find the first one. There are several of them here.

Counsel is a little perturbed, your Honor, because this bears a different print date than 1-E. We have examined it, and there is no change in the various print dates.

Mr. Paradise: You might make a statement of the print date on the copy which is attached.

Mr. Hall: This is Form 542, 5-M, print date 3-46, dated the 1st day of June, and signed by the defendant, and by [fol. 1447] both Moldenhauers.

By Mr. Hall:

Q. When did you go into possession of that station?

A. I believe it was in the year, or, the month of June, of 1947.

Q. You gave up possession of the station when?

A. In, I think, I believe it was September, 1950.

Q. September, 1950. During all that time was Mr. William Baxter the commission bulk sales agent and TBA distributor?

A. No, he was not.

Q. Who succeeded him, and when?

A. G. C. Summers succeeded him. I believe it was in about the middle of '48.

Q. Did you ever have any conversations with Mr. Summers about the type of products you were to handle at this station?

A. Yes, very shortly after he took Mr. Baxter's place.

Q. And what was that conversation?

A. Mr. Summers came out to inspect the station, and he told us that he is now going to carry a full TBA line, and he expected us to buy all our products from him that he carried.

Q. And he was the man that also furnished you with the gasoline; is that right?

A. That's right.

[fol. 1448] Q. Who was the merchandiser who was serving that station?

A. I don't recall the man's name that was there in '48. Mr. Knutson and Mr. Esplin were both transferred.

Q. He was the man that regularly called on your station as merchandiser?

A. Yes.

Q. Did you ever have any conversations with him relative to petroleum products or TBA products?

A. Yes, we did. Shortly after he came, I believe about the second stop he made at our station, he informed us that we were carrying a lot of off-brand or nonrecognized merchandise, and we were told to do away with it and replace it with merchandise that was recognized by Richfield Oil.

Q. Were you handling any oils other than Richfield lubricating oils?

A. Yes, we were.

Q. What were they?

A. Well, let's see. There was Quaker State, and MacMillan, and I believe we had some Pennzoil. We handled anything the customer wanted. If we didn't have it, we got it.

Q. Did this merchandiser complain about your handling Quaker State and Pennzoil?

A. He definitely did.

Q. What did he say?

[fol. 1449] A. He told us to cut it out.

Q. What did you do?

A. At the time we didn't do anything. We didn't pay any attention to it.

Q. Did you at any time have to hide any of this stuff?

A. Not for some time, we didn't.

Q. Did either this merchandiser or Ken Elslip discuss with you that other officials from Seattle were coming over?

A. No.

Q. To visit your station?

A. There is a possibility that this other man that was there before Elslip had mentioned something to that effect.

Q. What did he say?

A. That we should either get rid of the oil or hide it.

Q. What did he say about these men?

A. He mentioned something about the "big boys" from Seattle were coming over one of these days, and they were likely to see the off-brand oil there, and they wouldn't like it.

Q. Did he tell you what they would do if they found it?

A. No, I don't think he said anything in respect to that.

Q. Do you recall that you had some conversation with some Richfield representative relative to batteries?

A. Yes, that was Mr. Elslip.

[fol. 1450] Q. What was that conversation?

A. Well, that was after Mr. Elslip took this man's place. Of course, he spoke about all the off-brand articles that we were carrying.

Q. Yes.

A. And he raised Cain about everything that we carried practically, except the Richfield products.

Q. Were you carrying any batteries other than the Richfield-approved Goodyear batteries?

A. We quit the Goodyear batteries entirely for the simple reason that the bulk agent quit carrying the better grade of batteries.

Q. By that you mean Mr. Summers?

A. Mr. Summers, yes. He was complaining that he had too many that had to have adjustments, they kept continually coming back, and he was getting sore at the idea of making adjustments on them. So we started with another line of batteries. We carried the Exide line.

Q. You carried what?

A. The Exide line, and when Mr. Elslip saw our new line of batteries, why, he hit the ceiling. He didn't like the idea at all. I said, "Mr. Summers is not carrying a full line of batteries, and we definitely need a full line of batteries."

He said, "It is not up to you what you have got here." [fol. 1451] He said, "You have to carry what your bulk agent carries. It is up to you to buy from him."

Q. Do you recall that there was some altercation you had, I believe it was with Mr. Summers, relative to Winn oil?

A. That was my brother. He asked Mr. Summers, when we first started to carry Winn oil——

Q. Just a moment. Did you have any conversation with Summers about it, yourself?

A. I did.

Q. Will you explain just briefly what Winn oil is? Is it a general lubricating oil?

A. Winn oil is not. It is a sludge solvent.

Q. It is a sludge solvent?

A. And we had calls for sludge solvents.

Q. You were carrying Winn oil in your stock?

A. At the time we had those calls, we were not carrying any, and Richfield could not supply us with any. In other words, they didn't have any in Bremerton. So a man from Seattle came over that carried this Winn oil, and we started carrying it. And about a week after that Mr. Summers came back over on one evening while my brother was tending the station, and he didn't like the idea of us carrying

Winn oil. He told my brother off, and my brother told me. So next morning, when my brother told me about it, I went and asked Mr. Summers what the score was on this Winn [fol. 1452] oil. I said, "You people don't carry any sludge solvent. What do you want us to do? We have calls for it."

He said, "You don't have to carry it. That is not recognized by Richfield and it is not a nice product for you to have out there on the island."

The Court: What did you do about it?

The Witness: We continued carrying it.

By Mr. Hall:

Q. Did you ever have any conversation with Summers about carrying Quaker State motor oil?

A. Yes. Mr. Summers got a letter from Seattle. I don't recall who signed the letter, or who it was from, but it was from Richfield Oil. It was on a regular form written letter.

Mr. Paradise: I move the answer be stricken.

By Mr. Hall:

Q. Did he show you that letter?

A. He showed me the letter. I read the letter. And I asked him for the letter, and he grabbed it out of my hand, and he said, "No, that is my letter, and not yours." And they told him —for him to get down to the station and see to it that that oil is cleaned out of that station immediately, that they didn't want to see it in there again.

The Court: How was that oil put up? In cans, just like any other oil?

The Witness: Yes, sir, it was in quart cans.

The Court: What company puts it out?

[fol. 1453] The Witness: Quaker State.

The Court: All right.

Mr. Hall: That is all. You may take the witness.

The Court: How about the sludge oil? How was that carried?

The Witness: That is also carried in quart cans.

The Court: Who puts it up?

The Witness: Winn Oil of Seattle.

The Court: Winn is merely the name of the company?

The Witness: That's right, sir.
The Court: All right.

Cross Examination

By Mr. DeMartini:

Q. Mr. Moldenhauer, while we have stipulated to the form of the instrument you had executed, I want to show it to you. It was one of these 542 leases; is that correct?
A. I don't remember the form number, no, sir.
Q. Well, did you sign it?
A. Yes.
Q. Is that your signature?
A. Yes.
Q. Then that is the lease?
A. That must be the one, yes.

Mr. DeMartini: All right.
The Court: Which form is that?
[fol. 1454] Mr. DeMartini: That was one of the 24-hour leases, bearing——
The Court: I mean, is it an L-O?
Mr. DeMartini: It is an L-O form.
The Court: It is an L-O form?
Mr. DeMartini: That is correct.
The Court: All right.
Mr. DeMartini: Will you mark this, please.
The Clerk: Defendant's Exhibit D, for identification.

(The document referred to was marked Defendant's Exhibit D, for identification.)

By Mr. DeMartini:

Q. Mr. Moldenhauer, you stated that Br. Baxter checked your references.
A. He did.
Q. What was the nature of those references?

Mr. Hall: I object to that, your Honor.
The Court: What was that? What did you ask?
Mr. DeMartini: He stated that Mr. Baxter, a Richfield employee, checked his references.

The Court: That does not open it up, merely because a witness throws in something. We are not interested in what they found out. Objection sustained. It is cross examination as to an immaterial matter.

By Mr. DeMartini:

Q. I will show you an instrument marked Defendant's Exhibit D, for identification, consisting of two forms desig-
[fol. 1455] nated No. 205, entitled "Survey of Service Station Operations." Will you state whether that is your signature?

A. That is my signature.

[fol. 1456] Q. Whose signature is that?

A. That is my brother's signature.

Q. And he was there as a partner of yours?

A. That is right.

Q. Do you remember the occasion of either one of these forms being made out?

A. Well, there was a form, I believe, about every 30 days.

Q. About every 30 days. What do these columns at the top of the form entitled "MAINTENANCE S U C TBC" represent, if you know?

A. "Satisfactory," "Unsatisfactory," "Corrected", and "to be corrected," I believe.

Q. Calling your attention in particular to the items on this form which is dated June 2, 1950, it states opposite "Planting area" and under the letter "U" the figure "7", and opposite "Windows clean" under the letter "U" the figure "7", what did those figures represent in connection with those items?

A. Do you want me to give you the full story on this?

Q. Correct, the full story.

A. The full story is this, your Honor: That station was quite an old station. I believe it is about 20 years old. There is a fence, a wooden fence around that place, around the lot. That wooden fence is rotted. It was ready to fall over.
[fol. 1457] We propped it up with sticks to hold it up in various different places. That inspector, he came around and he expected us to plant grass around that fence. Mr. Kirby and various of the other gentlemen from Seattle were over one day and I called Mr. Kirby's attention to that

fence over there and some of the other stuff that should have been repaired. Mr. Kirby says, "We will take care of it." And he made a little notation of it. He says, "We will take care of that and then you will take care of the planting." I says, "That's fine."

Mr. Kirby never showed up after that nor did anybody else to repair that fence or anything else around there. So it wouldn't have done us any good or anybody else to repair the fence, or, I should say, to plant the planting area with a fence that was rotted off and lying over on its side and everything else, as far as making its appearance on the station.

The Court: Then you got a demerit on that account?

The Witness: That is right.

The Court: All right.

By Mr. DeMartini:

Q. How about the "windows clean"?

A. The windows were kept clean, as clean as possible. That depended on the time of the year.

Q. After this complaint was made did you make an effort to clean them up?

A. That depends. I don't remember back to June 1950. [fol. 1458] We might have and we might have not. If I remember correctly, we were trying to get out of the station about then.

The Court: As I understand, it rains the year around in Seattle.

The Witness: That is right.

The Court: More than in California.

The Witness: Yes, it does.

Mr. DeMartini: I offer these in evidence.

The Court: It is hard to keep the windows clean, isn't it?

The Witness: It is hard to keep them clean.

(The document referred to was marked Defendant's Exhibit D and received in evidence.)

Mr. DeMartini: That is all.

The Clerk: This is offered, your Honor, in evidence. Is that admitted?

The Court: No objection? It may be received.

Redirect Examination

By Mr. Hall:

Q. Mr. Moldenhauer, those windows, do they have the decalcomania around the top border indicating Richfield tires like so many of the Richfield stations have?

A. Yes, they have decals all the way around in the sales rooms.

Q. And that is advertising Goodyear products, is it? [fol. 1459] A. That is right.

Q. May I ask you if you know who Mr. Kirby is that you mentioned?

A. I don't rightly remember whether he is—I believe he is the district manager. I am not positive of that. He is one of the——

Q. So far as you know, he is the head man of the northern division?

A. Yes, he is one of the head men of the northern division.

Mr. Hall: That is all.

The Court: Quite a grading of the dealer here.

Mr. Hall: I think our pupil passed very well, if your Honor cares to look at the scoring.

The Court: He had a lot of "100" here.

Mr. Hall: That is one reason I did not object to its admission.

The Court: And he has zero here.

The Witness: Would your Honor excuse me from the court?

The Court: Yes, you are excused. Before we take a short recess, gentlemen, it occurred to me to make this observation.

It is quite apparent to me at the present time from what is going on for the last three days that the defendants are not seriously contending that they did not control the [fol. 1460] activities of the operators of the L-O stations. It would seem to me, if that is the case and the pattern of control having been put in by persons from various stages —I do not know how many witnesses you have—it would seem to me that the amount of testimony directed to that issue, except insofar as may deal with the question of interstate commerce, could be curtailed.

I am not starting to rush you. I don't do that until after the second week, you see. But it occured to me that the counsel are not very much interested. I can tell by the nature of their cross examination and by what they have said into the record. I am just making that suggestion to you.

You are not making any serious contention, aside from any question of legal effect, that you are not controlling the men under L-O contracts, as they call them? I think, in fact, you have insisted at various times that you do control them and tell them what they can buy in the way of products.

Mr. Paradise: Not only we do not deny it, your Honor, but we emphatically assert it.

The Court: Yes, sir.

Mr. Paradise: And it is not limited to control of the type of petroleum products. It covers all types of control of operations.

[fol. 1461] The Court: I am just making this a hint now. If they do not take it, I will do more than hint. After a certain while I will just say I won't allow them to offer any more testimony on that issue, because there is no use to build up a record on an issue on which the pattern has been set and which counsel are not disputing. It becomes then merely a question of law for the court to interpret it, and if we have five witness, they are just as good as if we have 20, because you can see that the pattern does not depend on place. It applies to all your outlets in that group in the six states.

Mr. Paradise: The court appreciates that my statement pertained only to the L-O units?

The Court: That is all I am talking about. I like to ask questions but I never put a man in a corner in asking him a question unless he puts himself there, you see. I am not going to put you in a bad situation. I limit it purposely in my desire to avoid repetition of the pattern.

Mr. Dixon: May it please the court, the Government is of the same view as your Honor has expressed, in view of the pleadings and status of the record as of now, particularly the testimony of Mr. King and the various evidence that has already been submitted in evidence. The

Government does have a considerable number of witnesses. I think the suggestion which your Honor has made, and which I welcome in fact, will be given consideration by the [fol. 1462] Government.

The Court: Yes.

Mr. Dixon: And we will endeavor to reduce the amount of testimony of that type as sufficient to come within the purview of the allegations on commerce and that sort of thing.

The Court: Yes, all right. Court will be in recess.

(Short recess)

[fol. 1463] The Court: All right, gentlemen, call your next witness.

Mr. Hall: Mr. Heinekin.

Ernest P. Heinekin called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct Examination

The Clerk: Will you state your name please?
The Witness: Ernest P. Heinekin.

By Mr. Hall:

Q. How do you spell your last name, Mr. Heinekin?
A. H-e-i-n-e-k-i-n.
Q. You reside in Spokane, Washington?
A. Yes.
Q. And your present occupation?
A. Service station operator.
Q. For Richfield?
A. Yes.
Q. What is the location of that station?
A. 325 South Washington.
Q. In Spokane?
A. Spokane.
Q. When did you enter into possession of that station?
A. On May 1, 1950.

[fol. 1464] Q. Was that the first Richfield station that you had ever operated?

A. Yes, sir.

Q. Prior to that time had you ever operated any service stations?

A. Yes, I was operating a service station for Shell Oil for eight years.

Q. Was that immediately prior to your going with Richfield?

A. Right.

Mr. Paradise: I am sorry. We can't hear you, Mr. Heinekin.

The Court: Yes, speak up loud so that they can hear you.

The Witness: All right.

By Mr. Hall:

Q. Will you tell us the circumstances that led up to your obtaining this Richfield station?

A. Well, I was ready to quit the oil business, and I had notified the Shell Oil Company I was going to terminate my lease, and in the meantime Mr. Anderson, he was——

Q. Who was Mr. Anderson?

A. He was a Richfield division man at that time in Spokane, and he found out about it, and so he called me up on the telephone and asked me if I would be interested in a service station. And I asked him where. He said, "At [fol. 1465] Fourth and Washington." And I said, "Well, I don't know," and I said, "I would have to think it over." And he said, "Well, will you go down and look at it?" I said, "I will." So I went down and looked at it, and I decided—I told him, or, I asked him how much rent. Well, he said, "What would you consider?" I said, "That's your business, and not mine."

And so we agreed on a rent proposition, and they sent it to San Francisco, and it was approved, and come back, and I leased the station.

Q. When you were checked into the station, who checked you into that station?

A. A man by the name of Mr. Neff.

Q. Was Mr. Anderson also present?

A. He was there just for a little while.

Q. At that time did you make any inquiries of either Mr. Anderson or Mr. Neff, or did Mr. Anderson or Mr. Neff make any statement to you about the products that you were to sell at that station?

A. Yes, they told me.

Q. Who made that statement to you?

A. Mr. Neff.

Q. Mr. Neff. And what did he say?

A. He told me that I would have to handle Richfield products. And I told him I understood that before I signed the lease.

[fol. 1466] So I said, "What about the Pennzoil," I said, "that's on the shelf?"

Well, he says, "You will have to buy that from the outgoing dealer because it's here."

Q. How many cans were there?

A. We counted seven quarts in the inventory.

Q. And did you ask him about TBA?

A. Yes, I asked him about TBA, and he told me I had to buy TBA from Mr. Leo Hobson, he was the Goodyear supplier at Spokane.

Q. Did you enter into a lease with Richfield at that time?

A. Yes, I did.

Mr. Hall: Do you want to stipulate?

Mr. Paradise: Here it is. (Handing document to counsel.)

Mr. Hall: Do you want to stipulate?

Mr. Paradise: Why don't you show it to him?

Mr. Hall: Will you mark this, please?

Mr. DeMartini: That is not necessary. Just show it to him.

Mr. Hall: Oh, you don't want that. Otherwise you are willing to stipulate that is similar to 1-E?

Mr. Paradise: It is 1-E.

Mr. Hall: It is, yes.

[fol. 1467] By Mr. Hall:

Q. I will hand you service station lease, which is Richfield Form 542, with the print date of 1-47, which has been agreed between counsel is similar to Government's Exhibit 1-E in this case, and ask you if that is the lease which you signed.

A. Yes, that is my signature.

Mr. Paradise: Mr. Hall, this form of lease is not your Exhibit 1-E, but that particular print date is attached to the stipulation which constitutes Defendant's Exhibit A.

Mr. Dixon: It is a reprint.

Mr. Hall: It is a reprint of 1-E, yes.

Mr. Paradise: I don't know whether there are any changes or not in those.

Mr. Hall: I will give you my personal assurance, Mr. Paradise, they are not substantial.

Mr. Paradise: Thank you, Mr. Hall.

By Mr. Hall:

Q. You purchased that Pennzoil, did you?

A. Yes, I did.

Q. Did you sell it?

A. Yes, I did.

Q. Did you buy any more Pennzoil?

A. Yes, I did.

Q. Did you run into any trouble with Mr. Neff, or any other Richfield executive, because you bought more Pennzoil?

A. Yes, I did.

[fol. 1468] Q. What?

A. Well, Mr. Neff come in one day and looked at the lube room, and he saw some more Pennzoil on the shelf, and he said, "You bought some more Pennzoil." I said, "Yes. I have quite a few customers who are using Pennzoil here from the previous operator, and they are demanding it."

He said, "Well, you'd better get it off the shelf."

I said, "Why?"

He said, "There will be some big shots over from Seattle in the next day or two," he didn't mention their names, and he said, "Put it in a cardboard box so they don't see it, because they won't like it very well." But he never did tell me to take it off the premises.

Q. Did you continue to handle it?

A. Yes, I did.

Q. Did you ever have any trouble with him about Firestone tires? Do you recall any incident about Firestone tires that you were handling?

A. No, I don't.

Q. What about Willard batteries?

A. Yes.

Q. What is the Richfield-approved battery?

A. Goodyear.

Q. Did you purchase some Willard batteries?

A. Yes, I did.

[fol. 1469] Q. Will you advise the Court the circumstances of the transaction that you had with Richfield relative to those batteries?

A. Well, I bought some batteries from the Quality Supply Company in Spokane, which were distributors for Willard batteries, and I put them on my display rack, which I bought. It was mine. I bought it.

Q. By the way, what salesman did you purchase them from?

A. Mr. Green.

Q. Mr. Herman Green?

A. Yes.

Q. Go ahead.

A. And so I put them on display, and Mr. Neff come in one day and said to me, he said, "That don't look very good."

I said, "Why?"

He said, "Well, you should have Goodyear batteries."

Well, I said, "If you can give me a deal like the rest of the wholesale houses do, I will buy my batteries from Goodyear," and I said, "I called up Mr. Hobson and he told me he could not give me any deals like the other operators could, because he wasn't in a position to handle that affair that way."

I asked Mr. Neff the same thing, and he answered the same way, that Mr. Hobson can't do it like some of the [fol. 1470] fellows can, give you a special rate, like I had.

Q. As I understand it, you were able to buy the Willard batteries with a better discount than you could get with Goodyear?

A. I did at that time, yes sir. At that time I did, and I also bought Seiberling batteries, and I bought them cheaper, too.

He said, "How come you bought them?"

I said, "I bought them out of Portland on a direct shipment on a West Coast fast freight, prepaid to the door, and the middleman gets cut out, and I save that money."

[fol. 1471] Q. Did he object to your having those Seiberling batteries in your station?

A. Mr. Neff says to me, "It don't look very good." He says, "Why don't you turn the name brands around to the wall," he says to me.

Well, I says, "It is a standard brand piece of merchandise. I shouldn't be ashamed of it."

He said, "It just don't look good. You should have Goodyear's."

So I turned the names to the wall, that is a fact, and it has been until not so long ago.

Q. Did you communicate that information about what Mr. Neff told you to do with those batteries to any other person?

A. Yes, I did.

Q. Did you tell Mr. Green?

A. Yes, I told Mr. Green that.

Q. Do you remember the occasion on which you told Mr. Green that?

A. No, I don't.

Q. Do you remember whether he came into your station, or did you see him otherwise?

A. No, Mr. Green called on me regular once a week, as a wholesaler out of Quality Supply at that time.

Q. Did he make any statement to you about the batteries?

[fol. 1472] A. Well, he said—he come in one time, and, well, I said, "I am going to have to turn your brand of batteries against the wall." I said, "You are lucky I don't have to make you take them back. I can still sell them. They didn't tell me to take them out."

Q. You say Mr. Green called upon you regularly once a week?

A. Right.

Q. Did you purchase any articles from Mr. Green or the Quality Supply Company that were items that were competitive with the Richfield approved brands?

A. Just batteries.

Q. Just those batteries?

A. Yes.

Q. Did you explain to Mr. Green why you didn't make other purchases from him?

A. Yes.

Q. What did you tell Mr. Green?

A. I told Mr. Green that we were told to buy from the Goodyear dealer exclusively, Mr. Leo Hobson.

Q. By "we were told," you mean you were told by Richfield?

A. Yes, by Mr. Neff.

Q. And that was the excuse you gave to Mr. Green for not purchasing from him?

[fol. 1473] A. Yes.

Q. Was that or was that not the truth?

A. That was the truth.

Q. Did you ever have any difficulty about signs upon your premises?

A. No.

Q. Has your station that large, wide decalcomania sign at the top of the office part, that advertises Goodyear products?

A. Yes.

Mr. Hall: You may take the witness.

Cross Examination

By Mr. Paradise:

Q. Mr. Heinekin, what is the average gallonage in your station?

A. Oh, it runs around 8,000. I presume between seven and eight thousand.

Q. Has it been that ever since you have been in there?

A. It was 2,000 when I took it over.

Q. 2,000 when you took it over?

A. Right.

The Court: How long ago was that?

The witness: I took it over the 1st of May, 1950.

The Court: I see.

[fol. 1474] By Mr. Paradise:

Q. Now, this lease that you executed dated May 2, 1950, at the time you took possession of the station you were

familiar with the fact that it contains a clause giving either you or Richfield the right to terminate it on 24 hours notice?

A. Yes.

Q. Was that discussed between you and Mr. Neff?

A. Yes.

Q. What was the discussion concerning that?

A. Well, Mr. Neff gave me the lease and told me to read it over, and I read it over, and it says in there a 24-hour lease.

Q. Did he explain the reason why the 24-hour clause was in there?

A. Well, he said that was because any termination—if something that was not satisfactory come up, why, they could relieve me in 24 hours.

Q. Isn't it correct, Mr. Heinekin, that he told you that it was to be expected of you to operate the station completely in the manner in which Richfield directed?

A. That's right.

Q. With respect to the hours, uniforms, type of service, maintenance, and things of that sort?

A. Well, I beg your pardon. According to hours, he told me to regulate my own hours accordingly, which I thought [fol. 1475] was the best time for business, which I did.

Q. He told you it was not necessary for you to remain open for 24 hours a day; is that right?

A. That's right.

Q. How long do you keep the station open?

A. From 7:00 to 10:00.

Q. From 7:00 in the morning until 10:00 at night?

A. Yes.

Q. Was there also any discussion concerning the wearing of a uniform?

A. Yes, there was.

Q. What was said by Mr. Neff concerning that?

A. He told me to go down to Bandy's or Crescent to buy uniforms.

Q. Did he not tell you it was necessary for you and any of your employees to wear Richfield uniforms, showing the Richfield insignia, a standard uniform?

A. Yes.

Q. Was there any statement by Mr. Neff concerning the restrooms or the cleanliness of the station, and the upkeep,

and the manner in which that would be expected of you?

A. I didn't get the first part.

(The question was read.)

A. Yes, sir, and they made a few comments on the cleanliness and operation of the station, and made us fill out a [fol. 1476] form every 30 days.

Q. Was there any discussion between you and Mr. Neff concerning the matter of your personal appearance?

A. Yes.

Q. Will you state what Mr. Neff told you?

A. He always told me to try to be as clean as possible.

Q. Did Mr. Neff make any statements concerning the matter of your dealing with the customers at the station?

A. No, he did not.

Q. You don't recall that?

A. No, I don't.

Q. Have you ever been informed by either Mr. Neff or a merchandiser, who subsequently came into the station, as to the island procedure and the so-called 5-point safety service and how to lubricate cars, and so on?

A. No, sir, I was not, because Mr. Neff told me with all the years experience I had he figured I knew the business well enough that he would not have to show me.

Q. So he took it for granted?

A. He told me that personally. I am not lying to you either.

Q. Now, subsequent to the time when you were installed in the station, what merchandisers came to your station? Can you remember their names?

[fol. 1477] A. Well, I don't get you. What do you mean on merchandisers? What merchandisers do you refer to? Richfield's?

Q. Yes.

A. Mr. Neff is the only merchandising man you have at Spokane. He was the only one that I saw there, of course.

Q. He was the only one that came in?

A. Yes.

Q. How often did Mr. Neff come in there?

A. Mr. Neff called on me once a week.

Mr. Paradise: May I see the Defendant's Exhibit C?

(The document was handed to counsel.)

By Mr. Paradise:

Q. Mr. Heinekin, I will show you Defendant's Exhibit C, which is a Form 205, and called "Survey of Service Station Operations," and ask you if when Mr. Neff came to your station, if you and he together did not discuss the items on this, and it was signed by both of you?

A. That's right.

Q. How often did that occur?

A. Once a month.

Q. Once every month?

A. Yes, sir.

[fol. 1478] Q. At the time you first went into the station, Mr. Heinekin, did you receive any financial assistance from Richfield?

A. Yes.

Q. Did you apply for it?

A. Yes.

Q. Mr. Heinekin, I show you an instrument entitled "Richfield Oil Corporation Loan and Bond Application" bearing form No. 1142 and ask you if this is your signature appearing on that form?

A. There it is, yes.

Q. At the time you signed this application were both of these instruments together or was it just the top one? Have you ever seen this second instrument?

A. I never saw this before but I did sign that one there.

Q. The attachment you have not seen?

A. That is right.

Mr. Paradise: Then, if the court please, I will offer only the first page of this instrument as Defendant's Exhibit next in order.

The Court: All right, it may be received.

The Clerk: Defendant's Exhibit E.

(The document referred to was marked Defendant's Exhibit E and received in evidence.)

[fol. 1479] By Mr. Paradise:

Q. Pursuant to this application, Mr. Heinekin, did you receive a loan of money from Richfield?

A. Yes, I told you that.

Q. In what amount, if you recall?

A. Well, I know that it wasn't quite enough from what I sold my previous station. They loaned me enough to pay up where I had to buy the equipment where I am now. It was all new equipment, so they loaned me the money.

Q. What was the equipment you required for this station?

A. There was tools, a grease rack. They had a grease rack on the wall with different grease guns on and you buy that. You have your air compressor and electric battery charger and your drain tank where you drain your waste oil in.

Q. You are talking about movable tools?

A. That is correct.

Q. Is that the same equipment you purchased from the former operator at the same Richfield station?

A. That is right.

Q. Were you informed by Mr. Neff that you would be expected to buy that before you would be permitted to enter the station?

A. Yes, sir. Yes, sir.

Q. Do you know how the price on that was figured?

[fol. 1480] A. $798.

Q. I mean how it was arrived at. Was it on a depreciated original cost, do you know?

A. It was $790 less 10 per cent. I think I am pretty near close there.

Q. Subsequent to the time you entered the station were you ever informed by Mr. Neff of the occurrence of any training schools that you would be expected to attend?

A. They told me if they have some in Spokane I was supposed to attend them, yes.

Q. Were you so informed about the training school?

A. I was so informed, but they never had any.

Q. You did not attend one, then?

A. No, they never had any. They told me in case they did I was supposed to attend one.

Mr. Paradise: No further questions.

The Court: Any redirect?

Mr. Hall: Yes, your Honor. Mr. Paradise, are you going to offer that?

Mr. Paradise: I already have. It is admitted.

Mr. Hall: I did not know it had been admitted. May I have it?

Mr. Paradise: Yes.

[fol. 1481] Redirect Examination

By Mr. Hall:

Q. Mr. Heinekin, handing you Defendant's Exhibit No. E, which is a loan and bond application for $800, it states in here: "I authorize the company to use this application for the purpose of obtaining bond with any bonding company that they may choose for an amount not exceeding $1,000." I will ask you did you ever execute a bond or receive a bond from any bonding company for any purpose?

A. No, sir.

Q. You did receive——

The Court: I did not hear your answer.

Mr. Hall: He said, "No, sir," your Honor.

The Witness: No, sir.

The Court: No. All right.

By Mr. Hall:

Q. And you received credit for some amount, I believe you testified, less than $800 from Richfield which you have had to pay back?

A. Yes.

Q. Do you know that at the time you executed this that included in that $800 was a $50 service fee which you had to pay Richfield for loaning you that money?

A. Yes.

Q. You are paying that back?

A. Yes.

[fol. 1482] Q. And is that loan all paid back yet?

A. Almost, not quite.

Q. You stated your hours were from 7:00 to 10:00 o'clock?

A. Yes.

Q. Do you operate the station alone and by yourself during that period?

A. No.

Q. I can't hear you.

A. No.

Q. Do you have other employees?

A. My son helps me.

Q. Your son helps you. And do you have to pay him or give him something?

A. I give him spending money.

Q. Spending money for that. And your hours are for the 15 hours a day, is that correct?

A. From 7:00 until 10:00.

Q. 7:00 until 10:00. Is that seven days a week?

A. Seven days a week.

Q. Seven days a week, including Sunday?

A. That is correct. Not in the wintertime, though.

Q. Well, you have more severe winters in Spokane than we do here.

The Court: I should say so.

[fol. 1483] By Mr. Hall:

Q. About these uniforms I don't remember what you stated. Did you get these uniforms?

The Court: Yes. I asked him how much he paid for them.

Mr. Hall: But he paid for them. I wanted to bring that out.

The Court: Yes, he bought them.

By Mr. Hall:

Q. About your bookkeeping equipment and your records, did Richfield recommend that you acquire certain bookkeeping records?

A. Yes.

Q. Or records to keep the record of things?

A. I had my own bookkeeping equipment.

Q. You had your own bookkeeping?

A. Yes.

Q. They did not furnish any of it for you?

A. No.

Q. Did you ever use these little—I think they call them door stickers—that they put inside of the door jamb of the car?

A. Yes, I do.

Q. To show the owner when his car was last lubricated?

A. Yes, I do.
Q. Do they bear the Richfield name on there?
A. Yes, they do.
Q. Do they bear your name?
A. We stamp our own name on with a stamp. We have [fol. 1484] our own stamps made out with our name and address and telephone number on, and we stamp those on there.
Q. Where did you get those stickers?
A. From the Richfield merchandise man.
Q. Do they furnish those to you free?
A. They do not.
Q. Do you have to buy them?
A. Yes.
Q. How much do you have to pay for them?
A. The last ones I bought, I paid a dollar for 10.
Q. A dollar for 10?
A. That is those tags.
The Court: You are repeating.

Mr. Hall: I am sorry, your Honor.
The Court: It is a bad habit to form.
Mr. Hall: A bad habit.

Q. You also have to furnish towels, toilet paper, and supplies for the restroom?
A. Yes, we do.
Q. Furnish that with your own money?
A. Yes, we do.
Q. Besides Mr. Green who calls upon you, do other salesmen from other supply companies, automotive supply companies and tire companies and battery companies call upon you?
[fol. 1485] A. They have, yes.
Q. In what numbers? Are there a great many of them or——
Mr. Paradise: Objected to as leading and also immaterial.
The Court: Overruled. Go ahead.
A. There is a few.
Q. And have you substantially given them the same answer that you have given Mr. Green?
A. That is right.

Q. Now, about this training course that you have talked about. You stated that you never took it?

A. No, I did not.

The Court: They did not have any. He said they did not have any. They never notified him that they had any.

A. I was never notified, but I was told in case they have a training school I was supposed to attend it. I told them I would but they never had one.

By Mr. Hall:

Q. Where would that have been held, in Spokane or somewhere else?

A. Yes, in Spokane.

Q. Were you to be paid for your time while you were attending that?

A. No.

Q. Not anything?

A. No.

Q. How many days was it to run, do you know?

[fol. 1486] A. I don't know.

Mr. Hall: That is all.

Mr. Paradise: No questions.

Mr. Hall: Mr. Heinekin, you may be excused.

The Court: You may be excused. Have you got a brief witness from out of the state?

Mr. Greer: Yes, your Honor. There is a witness from Idaho we would like to take today.

The Court: What?

Mr. Greer: There is a witness from Idaho whom we have been promising he could get back.

The Court: Yes. Put him on.

DOUGLAS COLBECK, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: Will you state your name, please?
The Witness: Douglas Colbeck.

Direct Examination

By Mr. Greer:

Q. What is your name?
A. Douglas Colbeck.
Q. Where do you live, Mr. Colebeck?
A. Moscow, Idaho.
Q. Are you a native of Idaho?
A. No.
[fol. 1487] Q. Where did you come from originally?
A. Michigan.
Q. How did you happen to come to Idaho?
A. A friend out there and I came out on a visit.
Q. What was his name?
A. Kenneth Wolverton.

Mr. Paradise: Who?
The Witness: Kenneth Wolverton.

By Mr. Greer:

Q. W-o-l-v-e-r-t-o-n?
A. Correct.
Q. How did you and he happen to go to Idaho?
A. He was there prior to the time I came out. He has been out there for several years.
Q. What kind of a proposition did he extend to you?

Mr. Paradise: Well, as to that I am going to object.
Mr. Greer: This is just preliminary.
The Court: Let us get down to it. I will sustain the objection.

By Mr. Greer:

Q. Did you and he go in together and buy a Richfield outlet?
A. Yes.

Q. Approximately how much money did you invest?

A. $6,000.

Q. How much of that did you put up?

A. $3,000.

[fol. 1488] Q. When was that?

A. March 1st, 1947, I believe.

Q. Do you still operate that station?

A. I do.

Q. Is Mr. Wolverton still in it?

A. No. He left December of the same year.

Q. Did you buy him out?

A. I did.

Q. How much do you think your current investment is?

A. We have a greater stock and new equipment, so there would be more than that now.

Q. Mr. Colbeck, is that a leased out station?

A. Yes.

Q. How much of the equipment and property there is owned by Richfield?

A. The building, grounds, compressor, pumps, hoist and six oil lubsters.

Q. How much property there do you own? Do you own the cash register?

A. Yes.

Q. Do you own the battery chargers?

A. Yes.

The Court: Let him tell us. He can tell what he owns. He has got $6,000 of property. He probably knows. You just kind of reel it off fast.

[fol. 1489] A. Cash register, adding machine, battery chargers, high-pressure grease equipment, hand guns, vises, small tools, floor jacks.

Q. When you put a gear-oil into a car is that gear-oil dispenser yours?

A. Yes.

Q. Does it contain Richfield gear oil?

A. It does.

Q. Do you purchase authorized TBA from the TBA distributor?

A. I do.

Q. What is the oil filter that you get from the Richfield man?

A. Purolators.

Q. Have you ever bought any Fram oil filters?

A. Yes.

Q. And is that an authorized filter?

A. It is not.

Q. Has anything ever been said to you by a Richfield representative about handling Fram filters?

A. On one occasion, yes.

Q. When was that?

A. Oh, a few months after I had the station. I had purchased a dozen or two—I don't recall—I had them on the bench. Mr. Wynn came in and he objected very strongly [fol. 1490] to it.

Q. Who is Mr. Wynn?

A. The merchandiser.

Q. Why did you buy those Fram filters?

A. At that time I had a number of customers who were Ford owners, and Fords are Fram equipped and they requested Fram filters.

Q. Was anyone else present?

A. No.

Q. What did Mr. Wynn say to you about those Fram filters?

A. He said, "Do you know you are not supposed to handle those filters?" And I acknowledged the fact that I was not supposed to. "Furthermore," he said, "we can stop you from putting them on the credit cards." And I informed Mr. Wynn I had never put any on credit cards, that is, company credit cards.

Mr. Greer: That is all.

Cross Examination

By Mr. DeMartini:

Q. I show you an instrument, Mr. Colbeck, bearing Form 542 and a print date 1 '47. Is that the lease under which you operate your station?

A. Yes.

Q. That is your signature?

[fol. 1491] A. That is right.

Q. And attached to that lease is an instrument entitled "Description of real property, buildings and improvements, retail equipment", bearing at the bottom thereof schedule A. Does that represent the equipment and facilities leased to you by Richfield?

A. Yes, I believe it does.

Q. What is the rental specified in that lease?

A. $30 flat guarantee and one cent a gallon. In other words, I would pay $30 a month whether I sold any gasoline or not, and if I sell 3,000 gallons of gasoline, the $30 figures occur on the first 3,000, and thereafter I pay at the rate of one cent a gallon. So it actually figures out one cent a gallon.

Q. What is your gallonage per month at that station?

A. It varies according to the season. It has been as high as 17,000 I sold.

Q. When it is 17,000 you pay $117.

A. Yes, that is correct.

Q. Has it ever been less than $3,000?

A. It never has.

Q. So you have never paid more than one cent a gallon?

A. That is correct.

Q. You said that you invested $6,000 in this station, you and your partner did, at the time that you purchased it?

[fol. 1492] A. That is right.

Q. Did you have any conversation at or about that time with a Mr. Wynn, a Richfield merchandiser, respecting the amount that you should pay for that station?

A. Never with Mr. Wynn. Perhaps Mr. Wolverton did but I never did.

Q. Do you understand what the Richfield merchandisers mean when they use the term "blue sky"?

A. I do.

Q. Were you present at any conversation where Richfield merchandiser or any Richfield representative told you not to pay blue sky to the outgoing operator of that station?

A. Mr. Wynn told me after I had purchased the station that the company would not permit that station to be resold at blue sky. But he did not tell me that at the time of the purchase. As I said before, he may have told Mr. Wolverton, but he did not tell me.

Q. Who handled the negotiations with Mr. Wynn?

A. At the time the lease was negotiated I was not present. Mr. Wolverton was present. I returned to Michigan and did not come back out, until I think it was the 21st day of March.

Q. So you do not know whether Mr. Wynn told Mr. Wolverton that?

A. I would have no knowledge of that.

[fol. 1493] Q. Mr. Wolverton never told you that Mr. Wynn told him that?

A. He did not.

Q. Have you ever had any discussions with any Richfield merchandisers relative to the manner in which you should keep the station, that is, with respect to cleanliness and equipment and credit cards?

A. Yes.

Q. What were you told?

A. We have been told—in fact we were supplied with a manual which tells us what Richfield products are allowed on the credit cards, and we are told what maintenance schedule the station shall be, the type of uniform we shall wear, and they suggest the hours that we keep, also.

Q. You are aware of the fact that that lease contains the 24-hour termination privilege in it on the part of either party?

A. I sure am.

Q. What is your understanding of the purposes of that short termination privilege?

A. Well, my understanding is that in 24 hours I can be dispossessed if the company sees fit.

Q. For any reason?

A. For any reason the company figures is justifiable.

The Court: You understand you have the same right?

[fol. 1494] The Witness: That is correct.

The Court: To move out?

The Witness: I understand that.

By Mr. DeMartini:

Q. I will show you an instrument entitled Form 205, "Survey Service Station Operations." A blank copy of it

is in evidence as Defendant's Exhibit C. Can you explain the nature of the use of those documents?

A. Mr. Wynn, who is now termed, I believe, special representative, he comes around monthly and makes this report out which I sign.

Q. What does the report indicate?

A. The condition of the station, my personal appearance, merchandise, whether or not it is clean and properly displayed.

Q. And you discuss those items with Mr. Wynn?

A. That is correct.

Q. And if they are unsatisfactory do you correct them from time to time?

A. Yes.

Q. What did you do before you became a service station operator at this station?

A. I was employed by two different companies, by the Murray Body Corporation for a little over 19 years, and about six months by Standard Products.

Q. Were you ever in the service station business before? [fol. 1495] A. No.

Mr. DeMartini: That is all.

Mr. Greer: You are excused.

The Court: All right, you may be excused.

Mr. Hall: Shall I proceed, your Honor?

The Court: How long will this man take?

Mr. Hall: I think we will finish up before 5:30.

The Court: Where is he from?

Mr. Hall: He is from Spokane. I can use him tomorrow just as well.

The Court: I think we just as well. I have other things to do.

Gentlemen, before we adjourn until tomorrow I think I had better tell you so you can make your plans. Ordinarily we try cases only four days a week because Monday we have law and motion matters which keep us occupied, in addition to which I have set short cases for various Mondays. However, as this case progresses I may not follow the rule. I may dispose of those matters on Mondays in a different manner. So that we will have to agree each week as to what we are going to do. But this coming Monday I have a very

heavy calendar, including an argument on the constitutionality of the Patton-Robinson Act in a group of cases which I have taken over from other judges. That will keep me very busy. I have already written one opinion determining that [fol. 1496-1499] the Patton-Robinson Act is an antitrust act and I may have to write another one this week. I do not know. We will see.

At any rate, when we adjourn tomorrow the case will be continued until Tuesday. I thought I would tell you that so that if you have any witnesses who come from a distance and you do not want to hold them over here for that length of time, you had better run through as many from a distance as you can tomorrow so they won't have to stay over until Tuesday.

Mr. Dixon: We will plan to do that, your Honor. Thank you.

The Court: All right.

(Whereupon a recess was taken until 10:00 a.m. of the following day, Friday, May 11, 1951.)

[fol. 1500] Friday, May 11, 1951

10:00 A.M.

The Court: Cause on trial.
Mr. Hall: Mr. Louis H. Rhodes.

Louis F. Rhodes, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: What is your name, please?
The Witness: Louis F. Rhodes.

Direct Examination

By Mr. Hall:

Q. Where do you reside, Mr. Rhodes?
A. In Spokane, Washington, 108 East Dalton.
Q. And your present occupation?
A. I am an oiler for Morris-Knudsen Contruction Co.

Q. And previously you operated a service station in Spokane, Washington, at East 2027 Sprague Avenue?

A. Yes, sir.

Q. And when did you go into that station?

A. I went in the station July 1st, 1949.

Q. And left it when?

A. November the 20th, 1950.

Q. I will hand you this document inscribed "Form 542" with print date of January 1947, and ask you if this is the lease which you signed for the operation of that service station?

[fol. 1501] A. Yes.

Mr. Paradise: Mr. Hall, will you identify for the record the date of the lease, please?

Mr. Hall: The lease is dated July 1st, 1949, between Richfield Oil Corporation and L. F. Rhodes. You will stipulate, will you, counsel that this is the same or similar to Government's Exhibit 1-E already in evidence?

Mr. Paradise: I will stipulate that it is similar. I have not compared it with that particular print date. This print date is attached to the stipulation as Defendant's Exhibit A.

Mr. Hall: Yes, it is Defendant's Exhibit A.

Q. About how long before you signed this lease did you enter negotiations for the renting of this property?

A. About two weeks.

Q. And who did you talk to?

A. I talked to the former operator, Don McCombs.

Q. His name is spelled M-c-C-o-m-b-s?

A. Yes.

Q. And then when was the first time that you contacted Richfield Oil Corporation in relation to renting this property?

A. About one week prior to the time I took the station.

Q. And who did you talk to?

A. Mr. Al Cloninger.

Q. C-l-o-n-i-n-g-e-r?

[fol. 1502] A. Yes.

Q. And who was he?

A. He was the merchandiser for Richfield at that time.

Q. Was he also a commis-ion agent or did you buy your

gasoline from him subsequently, or was he just a merchandiser?

A. He was just a merchandiser.

Q. Just a merchandiser. Did you make the arrangements and negotiations with him to rent this property?

A. Yes, sir.

Q. What was the conversation that you had with him when you first approached him about renting this property?

A. Well, I said I would like very much to lease the station and buy it from Don McCombs. And he said that would be all right, but he did object to me buying some of Don McComb's merchandise.

Mr. DeMartini: I move to strike that.

Mr. Hall: Wait a minute. This is a conversation.

The Court: Well "objects" is a conclusion. What did he say?

By Mr. Hall:

Q. What did he say?

A. He said I couldn't buy Don McCombs' 14 Lincoln batteries which were in stock at that time.

Q. He told you that——

The Court: Do not repeat, please. I do not approve of it. I hear very well, gentlemen. If you are in doubt, just [fol. 1503] try me sometime and see how much I hear, when you think least that I am paying any attention.

Mr. Hall: I know you do.

The Court: I have a method. All right, go ahead.

By Mr. Hall:

Q. Were those batteries in the station at the time?

A. Yes.

Q. Do you know whether or not Mr. Cloninger or any other Richfield man had caused any trouble about those 14 Lincoln batteries?

A. Well, there wasn't a great deal of trouble, except that I couldn't——

Q. No. Before you went in there?

A. No.

Mr. Paradise: Objected to for lack of proper foundation.

Mr. Hall: I asked him if he knew it.

Mr. DeMartini: I object to it on the grounds it is immaterial and irrelevant.

The Court: Sustained.

[fol. 1504] By Mr. Hall:

Q. You took over possession of the property, I believe you said, on July 1, 1949?

A. Yes.

Q. What did you do with those batteries?

A. I took them home, in my basement, and tried to help Don McCombs out, to get rid of them at 10 per cent below cost.

Mr. Paradise: I move that that be stricken, if the court please. That obviously relates to batteries he did not buy from the outgoing dealer.

The Court: Well,——

Mr. Hall: It is all linked up with Mr. Cloninger's statement.

The Court: The reason I started to object is that you are interpreting his language. Let the language speak for itself.

Mr. Hall: I have forgotten the last question. Will you read the last question?

(The question was read.)

By Mr. Hall:

Q. You didn't keep those batteries in the station, did you?

A. No, sir.

Q. Now, was there anything else said to you by Mr. Cloninger or by any other Richfield representative as to the products that you were to handle in this station which you [fol. 1505] had leased?

A. He said that——

Q. Who?

A. Mr. Cloninger stated that we should tie in with the Richfield program and sell their approved merchandise, which I was agreeable to at that time.

Q. Did he ever say anything about the petroleum products that you were to handle?

A. I assumed—we assumed that I would sell Richfield products, and petroleum products.

Q. Did you ever handle any Quaker State, Pennzoil, or other lubricating oil?

A. Yes, I did for a while. There was one customer wanted to buy Quaker State, and so I kept a few quarts of Quaker State for him out of—off of display.

Mr. Paradise: I move to strike the last portion of the witness' answer concerning the customer.

The Court: It may be stricken, unless he told the representative.

By Mr. Hall:

Q. What did you do with the oil?

A. I kept it off display.

Q. Where?

A. Well, in the service station, in the lubrication unit.

Q. Out of sight.

[fol. 1506] A. Out of sight.

Q. Did Mr. Cloninger or any other Richfield representative, ever complain to you about it?

A. No.

Q. Did they ever see it, so far as you knew?

A. So far as I knew, they never seen it.

Q. Did you at this station,—it is located on Sprague Avenue; is that right.

A. 2027 East Sprague Avenue.

Q. And Sprague Avenue is a main east and west highway, a through highway?

A. It is a main highway, yes.

Q. Do you receive many calls for Pennzoil or Quaker State or other products other than the Richfield recommended products?

A. Yes.

Mr. Paradise: Objected to as immaterial.

The Court: Overruled.

By Mr. Hall:

Q. When you received these calls did you have to turn the customer down many times because you didn't handle them?

A. Yes.

Q. What hours were you open at this station, Mr. Rhodes?

A. 8:00 till 8:00. 8:00 A. M. till 8:00 P. M.

[fol. 1507] Q. Were you operating this station alone?

A. Practically alone, except for some help from my younger brother, who just helped me out and relieved me for lunches.

Q. But you had to work the entire hours yourself?

A. Yes, sir.

Q. Or most of them?

A. Yes, sir.

Q. When you went into the station, did you have to purchase any equipment?

A. Yes.

Q. How much did you have to pay for the equipment which you purchased?

Mr. Paradise: Objected to as immaterial.

The Court: Overruled.

The Witness: About $400.

By Mr. Hall:

Q. About $400. Who succeeded Mr. Cloninger as merchandiser?

A. Mr. Verne Neff.

Q. Was he the merchandiser at the time you gave up this station?

A. Yes, sir.

Q. Did either Mr. Cloninger or Mr. Neff, or any other Richfield representative, ever make any other complaints to you about articles that you were handling?

[fol. 1508] A. No, not to my knowledge.

Q. In your operation of the station, after those two incidents, you pretty much kept it 100 per cent Richfield; is that right?

A. I stayed in line.

Mr. Hall: Your witness.

Cross-examination.

By Mr. DeMartini:

Q. I will show you the lease, Mr. Rhodes, that was shown to you a moment ago. You will note that it is terminable by either party on 24 hours notice. Did you notice that was in there at the time you signed it?

A. Yes.

Q. Was there any explanation given to you as to the reason for the inclusion in the lease of that——

A. No.

Q. —privilege of termination?

A. No.

Q. Did you ask about it?

A. I didn't.

Q. Did you discuss the terms of the lease at all?

A. Well, I have been familiar with the service station business for a good many years. I practically knew what was expected of us.

[fol. 1509] Q. What was expected of you?

A. Expected to follow the Richfield program and policies in regard to merchandise in their service stations.

Q. Did those policies include maintaining the station open for a sufficient number of hours to produce the necessary business in comparison with the stations in the area?

A. That's true.

Q. And maintaining the necessary help?

A. That's true.

Q. Was there any mention made of uniforms you were required to wear?

A. Yes.

Q. Did you borrow any money from Richfield at the time?

A. Yes.

Q. How much?

A. I borrowed $800.

Q. What did you use that for?

A. I used it to make the final payment to Don McCombs, who I had purchased the station from.

Q. You mean the inventory of merchandise, and the tools and equipment; is that correct?
A. Yes.

Mr. DeMartini: I think that is all.

[fol. 1510] Redirect examination.

By Mr. Hall:

Q. Mr. Rhodes, when you borrowed this $800 from Richfield, did you sign a note to them for it?
A. Yes.
Q. And you paid that note back to them, of $800?
A. Yes.
Q. That $800 note also included a $50 service fee that Richfield charged you for loaning you the money; is that right?
A. Yes.

Mr. Hall: That is all, Mr. Rhodes.
The Court: You may be excused.
Mr. Hall: Thank you very much.

(Witness excused.)

Mr. Hall: Mr. Cooper.

Eugene W. Cooper, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination:

The Clerk: What is your name, please?
The Witness: Eugene W. Cooper.
The Clerk: Eugene W. Cooper. Thank you.

[fol. 1511] By Mr. Hall:

Q. Your name is Eugene W. Cooper?
A. Yes, sir.
Q. Where do you reside, Mr. Cooper?
A. 2830 San Fernando Road.
Q. I didn't hear that address.

A. 2830 San Fernando Road.
Q. San Fernando Road where?
A. Right here.
Q. You previously lived in Bremerton, Washington?
A. Right; yes, sir.
Q. Did you operate a service station in Bremerton which you leased?
A. Yes, sir.
Q. When did you go into that station?
A. The 1st of June, '49.
Q. When did you leave the station?
A. Approximately the 3rd of June.
Q. When you went into this station, did you execute a lease——
A. Yes, sir.
Q. —with the Richfield Oil Corporation to lease this property from them?
A. Yes, sir.
Q. I will hand you this document which is entitled [fol. 1512] "Service Station Lease," on Form 542, with a print date of 1-49, and ask you if that is the lease which you signed with the Richfield Oil Corporation.

[fol.1513] Mr. Hall: The lease is dated June 1st, 1949. I will ask counsel to stipulate that this may be considered as a lease similar to that of Government's Exhibit 1-G.
Mr. Paradise: Yes, it is on the identical form. So stipulated.
Mr. Hall: It is on the identical form.

Q. Who did you first negotiate with relative to renting this station?
A. The agent, Mr. Summers.
Q. Is that Mr. George Summers?
A. George Summers, yes, sir.
Q. And where was he?
A. At the office.
Q. His place of business in Bremerton, you say?
A. Yes, sir.
Q. Is he the commission agent and TBA?
A. Yes, he is.
Q A distributor for Richfield?
A. Yes.

Q. Before this lease was signed what discussion did you have with George Summers about the operation of the station?

A. Well, hardly any discussion, except that I wanted the station and the operator in there was not doing a good job, and he figured I could do better. That was about the sum [fol. 1514] and substance of it.

Q. And you agreed upon the terms?

A. Yes, sir.

Q. You were to pay?

A. Yes, sir.

Q. Those terms were $50 a month plus one cent over 5,000 gallons, is that correct?

A. Yes.

Q. Do you know what the station was pumping at that time and before you went into it?

A. Right around 6700 or 7100, roughly.

Q. Per month, that is gallons per month?

A. Yes, sir.

Q. Of gasoline?

A. Yes, sir.

Mr. Paradise: I did not hear the witness answer, Mr. Bargion, of the amount.

(Answer read by the reporter.)

By Mr. Hall:

Q. Did you ever have any discussions with Mr. Summers or any other Richfield representatives relative to the products that you were handling there?

A. Well, nothing definite.

Q. Well, did they ever make any complaint to you about any products that you were handling?

A. Well, there were complaints about MacMillan, Mac- [fol. 1515] Millan oil, for one thing.

Q. Now, tell us about the MacMillan oil matter.

Mr. Paradise: Will you speak a little louder, please, Mr. Cooper? We have difficulty hearing you here.

A. Well, the last load of MacMillan oil came just at the time that Mr. Summers drove past the station. He stopped

and said he didn't like the looks of the MacMillan truck in front of the station and didn't like the idea of selling MacMillan oil. I didn't display the oil, and put it in Richfield containers or cartons to keep peace with the family.

Q. Did Mr. Summers also go to the truck driver and make any complaints to him?

A. Well, yes.

Q. What did he say? That is, the truck driver of the MacMillan Oil Co. I am speaking of.

A. Yes.

Q. What did he say to him?

A. Well, it made me mad, naturally. He said he wants to know what I was going to pay it with.

Mr. Paradise: I can't hear you, Mr. Cooper.

A. He said he wants to know what I was going to pay the oil with.

By Mr. Hall:

Q. Who did he direct that question to?

A. The MacMillan oil truck driver.

Q. The MacMillan oil truck driver?

[fol. 1516] A. Yes, sir.

Q. Do you recall any other statement?

A. I think the answer was——

Q. I am not asking you for the reason. Tell us what he said in substance.

The Court: Just tell us what he said.

A. Well, at the time, that was—I don't recall any other statement he made at the time.

By Mr. Hall:

Q. Anyway, he made that statement that you just repeated to the MacMillan truck driver?

A. Yes, sir.

Q. Did you ever have any further trouble with him about MacMillan oil?

A. No, not about MacMillan oil.

Q. Well, did you ever have any trouble about any other products or accessories?

A. Yes.

Q. What?

A. One day in particular he came in the station and rolled up his sleeves, and he said, "I am mad." He said, "I don't like any of this stuff around the station, these other products."

Q. What other products did you have at the station that day?

A. Well, there was Bowes Seal-Fast AHB dry patch and —well, items like that, you know, that were not handled by [fol. 1517] the agent.

Q. They were goods that he did not sell?

A. That is right.

Q. Go ahead.

A. But his stock was so depleted that you couldn't get anything, anyhow, from him, and you had to get it from where you could.

Mr. Paradise: I move to strike that as a conclusion of the witness and object to it as not conversation.

The Court: All except the words "the stock was depleted."

Mr. Paradise: Pardon me?

The Court: Strike all after the words "the stock was depleted."

By Mr. Hall:

Q. What else did he say to you at that time?

Mr. Paradise: I object on the ground of lack of foundation, if the court please. We have not fixed the time or place of this conversation.

The Court: Yes, fix the time and place.

By Mr. Hall:

Q. When was that, do you remember, approximately?

A. Well, let's see. I know it was in the summertime and I don't remember just what date.

The Court: What year?

By Mr. Hall:

Q. Was it 1950 or 1949?

A. Well, I believe it was in '49.

[fol. 1518] Q. And did Mr. Summers come into your station very frequently?

A. Oh, I would say once a week.

Q. Once a week?

A. Yes.

Q. He lived and operated within a very short distance from your station?

A. Well, he drove by there twice a day. He lived past my station.

Q. Did you ever have any particular Laher batteries?

A. Yes, I did, some Laher and Auto-Lite, both.

Q. What about them?

A. Well, I called the plant to get a reverse assembly battery.

Q. What plant?

A. The Richfield plant.

Q. Yes.

A. And no one there knew what I was talking about.

Q. What did you call them?

A. A reverse assembly battery.

Q. A reverse assembly battery?

A. Yes.

Q. Is that a particular kind of battery that the terminal posts are arranged differently than other batteries?

A. Yes, sir. They are just the opposite of any other [fol. 1519] battery. So having made the sale, I went down to pick up a couple.

Q. You called up Richfield and they could not supply it, is that right?

A. Right.

Mr. Paradise: I think we should have a better foundation for these conversations.

By Mr. Hall:

Q. When was this?

Mr. Paradise: And with whom he talked.

A. Well, that was in the wintertime. I remember we were selling quite a few batteries.

By Mr. Hall:

Q. That would be in the winter of 1949 or 1950?
A. Yes, the winter of '49.
Q. And you called whom?
A. At the time?
Q. Yes.
A. I called the plant, yes.
Q. Who did you talk to? Did you call Summers?
A. I called the plant but I don't remember just who I talked to.
Q. But it was the Richfield——
A. A representative there, whoever it was.
Q. It was the Richfield distributor that you called?
A. Yes, sir.

[fol. 1520] Mr. Paradise: I object to conversations and testimony of this sort. This would be impossible for the purpose of rebuttal without a further foundation as to with whom he talked and when he talked.

The Court: Well, of course, he was asked the questions and he is trying to remember as to when it was and if he knew the person to whom he was talking.

Mr. Hall: It is not particularly important, anyway, your Honor, as far as who he talked with.

Q. You did not get a battery from them?
A. Definitely not.
Q. Did you purchase one of these batteries that you needed?
A. I purchased one, and while I was there I picked up four others.
Q. And from whom?
A. From 1204 Park Avenue.
Q. Another distributor?
A. No, it was a garage actually.
Q. A garage?
A. Yes.
Q. Were they in any way connected with Richfield?
A. Definitely not.
Q. What was the make of the battery?
A. Well, I picked up, I believe, three Lahers and one Auto-Lite.

[fol. 1521] Q. What was the last one?

A. Auto-Lite.

Q. Auto-Lite?

A. Yes.

Q. Did you have any difficulty with Mr. Summers or any other Richfield representative about the purchase of those batteries?

A. Well, yes. In the fall, when he came in about these pie salesmen parking their trucks in front of the place.

Q. We will come back to the pie salesmen. Now, finish up about what happened about these batteries.

A. Well, he goes all around the station pointing out the things he doesn't like and that was one of them.

Q. What did he say to you?

A. Well, he would like to have me buy his batteries, but he didn't have a good battery in the place.

Q. Did he say anything else to you at the time?

A. Not regarding batteries, no.

Q. What about this pie wagon? By the way, what is a pie wagon?

A. Well, he refers to any salesman with a panel a pie wagon.

Q. Those are salesmen of what, accessories?

A. Any accessories or parts.

Q. They call around service stations?

[fol. 1522] A. Yes, sir.

Q. And have the goods right on the wagon?

A. Yes, sir.

Q. That is what you call in the trade a pie wagon?

A. That is what he calls a pie wagon, yes.

Q. What was his objection to that?

A. Well, it——

Q. What did he state to you about that?

A. He didn't want these fellows with these aforementioned pie wagons stopping on his property and selling the dealers any of their products.

Q. On his property?

A. Well, I mean not actually his property, but on these stations.

Q. As a matter of fact isn't he the owner of the property?

A. Yes, he is.

Mr. DeMartini: I object to that as asking for the conclusion of the witness.

The Court: No, if he knows.

By Mr. Hall:

Q. Do you know whether or not Mr. Summers and his wife had leased this property to Richfield?

A. Yes, sir.

Q. And you acquired your lease from the Richfield Oil Co.?

A. Yes, sir.

[fol. 1523] Q. Was there something said to you about the placing of your name on the station?

A. Yes. About a month after I had taken over, I suggested putting my name on the canopy and the representative—I don't remember who it was, whether it was Summers or the field man—but anyhow, he suggested that I did not put my name on the station.

Q. You said that when you went in there your gallonage was about 6,000 gallons, roughly?

A. Yes.

Q. And during the second month——

Mr. Paradise: He said, "6700 to 7100," Mr. Hall.

Mr. Hall: Yes, I was wrong. I did not actually remember.

A. Actually, I believe it was 6700 the end of the month.

Q. At the end of the second month from this time when you wanted to put your name up on the station what gallonage were you pumping?

A. It was over 13,000 in the month of July.

Q. And that increase had been through your personal sales solicitation?

A. Well, I egotistically think so, yes.

Q. How long have you lived in that community?

A. Well, I was born there, lived there all my life.

Q. When you took the station over did you have to pur-

[fol. 1524] chase some equipment and inventory?

Mr. Paradise: Object to the question as calling for the conclusion of the witness. I think that this witness has shown so far that he need not be led under each question.

The Court: Yes.

Mr. Hall: I asked just an open question whether or not he did, your Honor.

The Witness: The question, again?

The Court: Go ahead.

By Mr. Hall:

Q. Did you have to purchase any stock or inventory or equipment when you leased this station?

Mr. Paradise: The same objection.

The Court: Overruled.

Mr. Hall: Go ahead.

A. Well, I did, yes.

Q. Who did you purchase that from?

A. I bought the stock from the Richfield, Richfield agent.

Q. Who did you purchase your equipment from?

A. A broker in Seattle, Rothwiler.

Q. About how much did this equipment cost you?

A. About three—oh, I would say $350.

Q. About $350. That included what, principally?

A. Well, there were three lubsters, a grinder, a tire patch or a tube vulcanizer. That is about all.

[fol. 1525] Q. What were the hours that you kept that station open?

A. Well, originally, about 7:00 in the morning until 1:00 in the morning. It was a highway station and we figured we could make a go of it.

Mr. Paradise: Mr. Cooper, we can't hear you. I am sorry.

The Witness: I am sorry, too. About 7:00 in the morning until 1:00 in the morning.

Mr. Paradise: Thanks.

By Mr. Hall:

Q. Did you have to hire anyone to assist you in running that station?

A. Oh, yes, yes.

Q. And did you pay social security taxes on these men that you hired?

A. Yes, sir.

Q. These little door stickers that are placed on a car to

indicate when it was lubricated and the oil changed, did Richfield furnish those to you?

A. No, sir, no, sir.

Q. Did they have Richfield's name on there?

A. Definitely.

Q. Did you have to pay for them?

A. Yes, sir.

Q. How much did you have to pay for them?

A. The books were about three for 25 cents.

[fol. 1526] Q. And were there also some charts that you had to fill out?

A. Well, on the lube charts, yes.

Q. Lube charts?

A. Yes.

Q. Were they furnished by Richfield or did you have to purchase them?

A. No, we had to buy them.

Q. From whom?

A. Richfield.

Q. From Richfield?

A. Yes, sir.

Q. What about the customers' cards and file box in which they were kept?

A. Had to buy those, too.

Q. you had to buy those from whom?

A. Richfield.

Q. From Richfield. What about your bookkeeping equipment?

A. Well, I had to purchase that.

Q. That was not furnished to you by Richfield, was it?

A. No, sir.

Mr. Hall: You may take the witness.

[fol. 1527] Cross-examination.

By Mr. Paradise:

Q. Mr. Cooper, I understand that you went to Richfield and solicited the right to use this station, is that correct?

A. Right.

Q. And had a conversation with Mr. Summers as to the terms on which you would be permitted to occupy it?

A. Yes, sir.

Q. Mr. Summers explained to you, did he not, that you would be permitted to occupy this station upon condition that you operated and maintained it in the manner directed by Richfield; is that correct?

A. Yes, sir; right.

Q. You understood at the time you signed this lease that there was a 24-hour clause in it?

A. Yes, sir.

Q. Did you have any conversation with Mr. Summers concerning the reason or purpose for that clause?

A. No, sir.

Q. Did Mr. Summers explain to you that the purpose of that clause was that if your operations were unsatisfactory that Richfield would be in a position to remove you?

A. Well, it is understood if a fellow has sold enough gasoline that you would continue to operate it. I liked it myself, because I could get out as soon as I wanted.

[fol. 1528] Q. Who was the operator of that station before you moved in?

A. Ed Minter.

Q. What was his name?

A. Ed Minter.

Q. You understood that he was not doing a good job in the station, is that correct?

A. Yes.

Q. Did you understand that from Mr. Summers?

A. Pardon?

Q. Did Mr. Summers inform you of that?

A. Well, it was understood between us. I could see it. Anyone could see it.

Q. The rent which you have paid during the time you occupied that station was one cent per gallon, I think?

A. $50 a month plus one cent a gallon.

Q. Well, it was $50 a month plus one cent a gallon over 5,000 gallons, is that correct?

A. Right.

[fol. 1529] Q. The amount of gallons that you sold never went below 5,000 gallons?

A. Never did, no.

Q. Then the rent you paid figured on a gallonage basis was never more nor less than one cent per gallon?

A. That's right.
A. That's right.
Q. Am I correct?
A. That's right.
Q. This equipment that you said you bought, you didn't buy that from Mr. Minter, the former occupant, did you?
A. I took over a contract he was paying on.
Q. Did Mr. Summers tell you the type of equipment he wanted you to have if you were to occupy the station?
A. No.

Mr. Paradise: No further questions.
Mr. Hall: That is all, Mr. Cooper. Thank you very much.

(Witness excused.)

Mr. Hall: Mr. Harold Pierce.

[fol. 1530] Harold E. Pierce, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination:

The Clerk: What is your name, please?
The Witness: Harold E. Pierce.
The Clerk: Harold E. —— how do you spell your last name?
The Witness: P-i-e-r-c-e.
The Clerk: Thank you.

By Mr. Hall:

Q. Where do you reside, Mr. Pierce?
A. 340 West 87th, Seattle.
Q. In the State of Washington?
A. Seattle, Washington.
Q. What is your present business?
A. I am a service station operator.
Q. Whose products do you sell now?
A. Texaco.
Q. Texaco. Did you operate a service station at 8555 Greenwood Avenue, in Seattle, Washington?

A. Yes, I did.

Q. You were the lessee of that station?

A. Yes, sir.

[fol. 1531] Q. When did you go into that station, do you recall, Mr. Pierce?

A. September, about 1943-'4. I don't recall exactly.

Q. I will hand you a document entitled, "Richfield Oil Corporation Service Station Lease," on Form 542, with a print date of February, 1944, and ask you if that is the lease which you executed at the time you went into the station.

A. That's my signature, yes. That appears to be the lease.

Q. That lease is dated when?

A. September 25, 1945.

Q. Would you say that——

A. Now, just a minute, please. The thing about this lease, when we went in here——

Mr. DeMartini: Will you speak up, please, so that we can hear you?

The Witness: Pardon me?

Mr. DeMartini: Speak so that we can hear you.

By Mr. Hall:

Q. I will ask you questions about it. Just a moment here. Would you say that is the date you went in, approximately?

A. Yes, sir.

Mr. Hall: Will counsel stipulate that this lease which he executed is the same as Government's Exhibit 1-E?

[fol. 1532] Mr. Paradise: No, I can't do that, Mr. Hall, though I can stipulate it is a form attached to Defendant's Exhibit A, which is the stipulation concerning forms.

Mr. Hall: 2-44 is the same.

Mr. Paradise: Oh, yes, that is Government's 1-E. I thought it was a different print date.

By Mr. Hall:

Q. Did you have any discussions with any Richfield representatives before you went into this station?

A. Yes.

Q. With whom?

A. Mr. Mumford, and I just can't think of the second man's name now, but they didn't have merchandisers at the time I went in, and they had another man who was working as a real estate man for the Richfield Oil Company.

Q. Do you recall his name?

A. I would remember it if I heard it, but I just don't remember it now.

Q. Well, you talked to these gentlemen about leasing this property?

A. Yes, I did.

Q. Was there any discussion had at that time as to what products you should sell?

A. I was not told that I had to sell or could not sell any other brands.

[fol. 1533] Q. You were told that at the time?

A. No, sir.

Q. Was that told you subsequently after you went into the station?

A. Yes, it was. Incidentally, I went into that station in a partnership form.

Mr. Paradise: I move to strike any volunteered statement of the witness.

The Court: That may go out.

By Mr. Hall:

Q. I will ask the questions, Mr. Pierce. Was this station operated before you went into it?

A. Yes.

Q. Did you have to pay anything for the equipment when you went into the station?

A. Yes, my partner and I bought——

Q. About how much money did you pay?

A. —the former's equipment and merchandise. Approximately $1500 all together.

Q. And you occupied this station then from the 25th of September until what date?

A. Until the 24th of December, 1949, I believe.

Q. 1949. Then when you gave up this station where did you go?

A. I leased a Texaco station right across the street from this station.

[fol. 1534] Q. Right across the street from this station?

A. Yes, sir.

Q. And is that the station you are in presently?

A. I am still there, yes.

Q. Now, did you have any difficulties with any of the Richfield representatives relative to the products which you were handling?

Mr. Paradise: I object to the question. It calls for the conclusion of the witness.

The Witness: I didn't hear you, sir.

The Court: I will sustain the objection.

By Mr. Hall:

Q. Did any Richfield representatives ever make any statements or complaints to you about any of the products which you were handling?

A. Yes, on several occasions.

Q. Will you tell us the first one, and what it was about?

A. At one time several Richfield representatives came into the station, walked all through it, and searched the station without any apparent reason. They went into drawers, desk drawers, opened doors, and look in there. They found—on this occasion they found some MacMillan oil, which I was carrying in stock for people who had requested it, and some Auto Lite spark plugs, and they told me they didn't like to have me handle those products, and they said I should keep them out of sight, that I [fol. 1535] could not advertise them, although, in my opinion, they were at least as good as the other products that Richfield sold me.

The Court: You told them that? Did you tell them that, in your opinion, they were?

The Witness: Yes, sir.

The Court: All right.

The Witness: So they said it probably would be all right to sell them, but to keep them out of sight, and do not advertise them.

On another occasion I had some Triton oil in stock for a couple of customers who wanted it, and I was told that

I should not sell that product, but it probably would be all right if I kept it out of sight, and do not advertise it.

On a third occasion I had some Western oil sitting in a small drum, a container, about a 15-gallon container with no name on it, which I was selling at that time two quarts for 25 cents. I was selling that oil to people who would drive in and ask for two quarts of cheap oil, of some Western oil. Richfield oil was selling at 15 or 20 cents a quart at that time, for a comparative oil. When they saw that, they just raised the roof. Mr. Elslip——

Q. Mr. Elslip was the merchandiser at that time?

A. Yes, sir. He just raised the roof, and said, "You will have to get this oil out of this station immediately, or [fol. 1536] we will cancel your lease."

I tried to persuade him, and argue with him, said I wasn't breaking any laws or doing anything I considered wrong, but I was told I was to get it out of there fast, or I would be canceled in 24 hours or less.

Q. Did you ever have any trouble with any of these Richfield representatives about any signs you had on your station?

A. On several occasions. It seems——

Q. What did they tell you to do with the signs?

A. I was told to take them down, remove them, not display them, although any time that Richfield felt like doing it, they felt free to come out and put up any signs and as many signs in my windows as they wanted to, and leave them up as long as they wanted to. It didn't seem to me it was fair, because I was paying rent for the premises.

Q. Did they put up Goodyear signs on your property?

A. Yes.

Q. Did they have these decals put across the top of your windows, advertising products?

A. Yes, they did, all around the entire sales room.

Q. Did they also have a metal Goodyear sign hanging from a post?

A. Yes, they did, hanging from a light post on the corner. [fol. 1537] Q. Did you ever attempt to place any signs advertising any products other than Goodyear out in front of the station?

A. On one occasion I put a sign in the front office win-

dow, facing the gas and oil, advertising Champion spark plugs, or Richfield's own products, and I was told to take it down, it was an unauthorized sign. I was never told what was authorized or what was not, but, in my opinion, it appeared to me that anything I put up was not authorized.

Q. Did you also attempt to do some repair work on the premises, minor motor tune-ups, and minor repairs?

A. Yes. I was told I should not do automobile repairing in any capacity, that the company frowned on it very much, on having me do any brake relining, or any motor tune-ups, or any other kind of repairs. They said it would get my hands dirty, and it was not pleasant to the sales trade or customers. It is impossible to do any repair work without getting your hands dirty.

Q. When you gave up the station, Mr. Pierce, did you meet with any difficulties on the part of Richfield officials in disposing of your equipment which you had purchased when you went in there or during the time that you were operating there?

Mr. Paradise: I think that calls for the conclusion of the witness. I would like to have a foundation laid.

[fol. 1538] By Mr. Hall:

Q. When you gave up the station, did you sell to the new lessee all of the equipment which you had in the station?

A. No, a very, very small part of the equipment I had in the station, and very little merchandise. It was a farce.

Q. Tell us the circumstances?

A. I had at the time that I sold that station,—I would estimate I had about $4500 to $5,000 worth of stock and equipment, and he was in a few days before that, when I was asked to sign a release on the lease, which I did, thereby cutting my own throat.

Mr. Paradise: I move that last statement of the witness be stricken.

The Court: Yes, that may be stricken.

By Mr. Hall:

Q. Go ahead, Mr. Pierce.

The Court: Tell us what you did.

The Witness: Nevertheless, I signed this release, and the oil company's representative brought a man and his wife out to look at the station, a prospective buyer. They looked it over, and they talked it over among themselves, and finally came back and decided to buy. We agreed upon an hour, the following day I believe it was, and they came out and started the sale.

The merchandisers, of which there were something like [fol. 1539] four present, checked over every item in the station, kind of looked at all the windows to see if there were any broken windows, any damage done to the property, tested the air compressor and hoist, and everything that belonged to Richfield, and found them all satisfactory.

Then we started the sale, which was actually an auction. I was given—I had no one with me. I had no power to—in other words, it was actually that I had to take what he offered me, or leave it.

By Mr. Hall:

Q. "What he offered you," what do you mean?

A. What the prospective buyer, the new buyer, Mr. Lynch was his name, offered me.

Q. Was he being advised during this period by the Richfield representatives as to what price he should pay?

A. He was being advised by his son, who was another Richfield dealer at another station, at another Richfield station.

Mr. Paradise: I object, your Honor. Mr. Pierce, will you delay answering the questions until I have an opportunity to object, if I see fit.

The Witness: O.K.

Mr. Paradise: What was the last question, please?

(The question was read.)

The Court: I will sustain an objection to that question. [fol. 1540] He may describe what was being done.

The Witness: Well, we would choose a certain product

on the shelf. For instance, maybe on one occasion it was Rislone, which is a tune-up oil. And he says—well, Mr. Lynch's son says, "I never use that product in my station. Do you want to buy it or not, dad?"—to Mr. Lynch, the elder.

So, in other words, it appeared to me that he was suggesting that he would not buy it.

Mr. DeMartini: I move to strike that, your Honor.

The Court: Strike that out. What followed that, when he made that remark? What did the father say?

The Witness: Well, he said, "No, I guess I won't take that." Then there was Carbout brought up, and I asked if he wanted to buy the Carbout. In other words, they were given an opportunity to buy each and every item, or not to buy, as they chose. I had——

By Mr. Hall:

Q. When the sale was all over, was there a considerable amount of equipment or merchandise, or both, that you had to take away with you, that was not sold?

A. Almost everything. Practically the only thing that they bought was the gasoline, the oils, the greases, and fan belts, and a few tires.

Q. Do you have some of those items still unsold?

A. I still have most of the most expensive equipment, [fol. 1541] which I have been unable to sell.

The Court: Those were not on the list approved by Richfield? Or, were those things you had received from Richfield?

The Witness: Those are things I had bought elsewhere, but they were my property. I wanted to sell them.

The Court: In other words, the items that you yourself had bought they were not interested in buying from you? Is that the idea?

The Witness: Yes.

The Court: All right.

By Mr. Hall:

Q. Just one other question. Those were all items that you used in the operation of that service station which you had leased, were they not?

A. Yes, they were.

Q. I note in looking at your lease, Mr. Pierce, that originally, when you went into this property in 1945, you agreed to pay $50 a month flat rent, plus one cent over 5,000 gallons; is that correct?

A. That's correct.

Q. Just to show you here, to make sure of that (showing document to witness). It that right?

A. Yes, I believe that's right.

Q. Then by an amendment to the lease on the 12th day of February, you agreed to pay $100 per month flat rent; [fol. 1542] is that correct? Here is the $100, (indicating) the 12th of February, '48.

A. Yes, that is my signature, so it must be correct. I vaguely remember that, but I think it was canceled.

Q. Then on the 21st day of September, 1948, you agreed to pay $40 per month and one cent over 4,000 gallons; is that correct?

A. I don't recall that.

Q. The 21st of September, 1948?

A. It must be correct, though. There is another item here that you haven't asked me about: Why is there only one signature?

Mr. Hall: That is all right. That doesn't make any difference. Your witness.

Cross-examination.

By Mr. Paradise:

Q. Mr. Pierce, how did you come to be interested in this particular station? Now, I am talking about the Richfield station, not the Texaco station.

A. I understand. Originally I started out and went to several oil companies, Shell, Richfield, and several others, and applied for a service station to lease.

Q. I see.

A. And eventually I got a phone call from someone in [fol. 1543] Richfield to come down and see them, they thought they had a service station I might be interested in.

Q. Prior to that time had you ever operated a service station?

A. I had worked in service stations for many years previous to that, but never before operated any.

Q. You were never before established in business in a service station?

A. That's right.

Q. And you applied for this service station?

A. Yes, I did.

Q. At the time you responded to Richfield's call, you knew that Richfield owned this station?

A. No. I assumed they owned it.

Q. That is what I meant.

A. They didn't own it, I found out later.

Q. You mean they didn't have title?

A. They were leasing the station from another party who owns it.

Q. But Richfield had a lease on it; is that correct?

A. Yes, sir.

Q. Now, at the time you went or as soon as you went into the station, what gallonage did you commence performing?

A. I couldn't say exactly. The previous owner had been very much mismanaging the station. They were closing it [fol. 1544] at 6:00 P. M. and opening at 9:00.

Q. When you say "the previous owner," you mean——

A. The owner I bought from.

Q. The tenant of the station?

A. Yes. And their gallonage was down quite low, I believe around, oh, maybe 2500 a month, something like that.

Q. With whom did you talk when you went into this station?

A. A Mr. Mumford, and I don't recall the other gentleman's name.

Q. Did Mr. Mumford tell you that he was dissatisfied with the performance of the previous operator?

A. I believe he did.

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Q. Now, what was the gallonage when you went in, that is to say, what gallonage were you doing?

Mr. Hall: When he went in?
The Witness: At what time?

By Mr. Paradise:

Q. Well, shortly after you started your own operation?
A. Well, it went right up. It eventually reached 12,500 a month, which is about the most it ever pumped, I have been told.

The Court: How long did you have the station?
The Witness: I was there four and a half years.
The Court: You worked it up? You built it up, didn't [fol. 1545] you?
The Witness: Yes, indeed.

By Mr. Paradise:

Q. Did you request this reduction in rent that was made on September 21, 1948?
A. I couldn't truthfully say. I don't remember it right now. I just don't remember.
Q. Well, do you remember what the gallonage of the station was at the time of this rental amendment of September 21, 1948,—at the time it was made?
A. I don't remember the gallonage.
Q. Well, approximately what were you pumping along at that time?
A. '48? Well, I would make a guess at probably 10,000 gallons, something like that.
Q. Do you have any recollection of the circumstances at the time this rental reduction or change was made on February 12, 1948, when the rental was changed from $50 a month plus one penny over 5,000, to a flat rental of $100 a month? Do you recall the circumstances of that change?
A. No, sir, I don't.
Q. Isn't it correct that at the time that change was made you were pumping in excess of 10,000 gallons per month, with the result that putting you on the basis of $100 a month flat rental amounted to a reduction in your rent?

[fol. 1546] Mr. Hall: Your Honor please, I don't believe that is at all pertinent to the issues here in this case.

The Court: No, that is all right. Go ahead.

The Witness: I couldn't answer you definitely.

Mr. Hall: It was not a reduction in rent, in the first place. That is the wrong assumption on the part of counsel, that it was any reduction in rent, because there is a minimum that has been raised from $50 to $100, which was the minimum amount he was to pay.

The Court: All right. Go ahead. You may answer, if you can. Can you answer the question?

The Witness: No, I can't answer the question.

By Mr. Paradise:

Q. At $100 a month, if it were less than 10,000,—put it this way: If you were pumping 10,000 gallons per month, and not over, the change of the rent to $100 a month would amount to a reduction in rent, would it not?

Mr. Hall: That is purely argumentative and speculative.

The Court: It is argumentative. I will sustain the objection.

Mr. Paradise: I presume it is. I was just correcting counsel's statement.

The Court: Assuming it was a flat rent and he was pumping over, it would be a reduction. If he was pumping less, it would be an increase.

[fol. 1547] Mr. Paradise: I agree with your Honor. My statement was incorrect. If he was pumping more than 10,000 gallons, as I understood he was, it would have been a reduction.

The Court: As I understood the basis, the basis is on a minimum. Then above that they pay one cent a gallon. That is what the pattern is.

Mr. Paradise: Yes, but without duplication. There is no overlapping.

The Court: All right.

By Mr. Paradise:

Q. Do you have any recollection of the circumstances of this rental amendment that was made in September of 1948, when there was a change from a flat rental of $100 a month,

to a rental of $40 a month and with a penny a gallon over 4,000 gallons.

Mr. Hall: Your Honor, that question has already been asked and answered.

The Court: Overruled. You may answer.

The Witness: It seems to me I do recall something about that; that Richfield came out and told me if I would leave all my lights on in the station, every light in the station on, from the hour of opening until the hour of closing, regardless of how light or dark it may be, that they would put me on this rate, and that would take care of the additional light bill.

The Court: What time of the year was it?

[fol. 1548] The Witness: I don't recall, sir.

The Court: It doesn't get so dark early.

The Witness: That is all right, but we didn't need the lights on. I suppose it was an advertising idea on the part of Richfield to attract attention.

The Court: To attract attention. I see.

The Witness: If I remember right, that was the reason for the change in rent.

By Mr. Paradise:

Q. Do you recall whether you requested this change in rent or whether Richfield came out and told you about it?

A. I believe they approached me with the idea. I couldn't swear to that statement.

The Court: Had they expressed any dissatisfaction before as to what you were doing in the station

The Witness: No, not that I recall.

The Court: Isn't it true that you were working at building it up at that time? Hadn't you been building it up gradually over the years?

The Witness: Yes. I worked very hard at that station.

[fol. 1549] The Court: Well, did they tell you when they did that as to why they wanted it? Did they complain that possibly you were not getting your share of patronage in the neighborhood or what, or did they just come and say to put in the light?

The Witness: They offered it as a plan.

The Court: What?

The Witness: They offered it to me as a plan for the station, if I remember correctly.

The Court: How long had you been running the station?

The Witness: Oh, a term now of three years. I operated the station as a partner. That has never been brought out in this trial. I went in there with a partner to start with.

The Court: Well, that is not a very important fact. I am glad you told us that you had a partner.

The Witness: Yes. So they would come out with various plans at various times, offering to sell us advertising or various things. This was one of them, and they want us to leave the lights on from 7:00 a. m. to 10:00 p. m., the hours that I operated.

By Mr. Paradise:

Q. Prior to that time what hours did you operate?

A. I always operated from 7:00 a.m. until 8:00 or 9:00, and in the summertime until 10:00 p. m. except on Sunday.

Q. Then this change was to keep it open an extra hour during the winter?

A. No. No, this change in rent, if that is what you are [fol. 1550] still talking of——

Q. No. I mean this change of hours.

The Court: I do not think he said a change of hours.

A. In the wintertime we closed an hour earlier at night because there was not much business after 9:00 o'clock at night. In the summertime we stayed open an extra hour.

The Court: How did you divide your time between you and your partner?

A. Well, we would alternate weeks. I would work one or two weeks from 7:00 a.m. until 6:00 or 7:00 at night, and then my partner would work the morning shift and I would work the late shift. We had hired help in addition to that.

The Court: How many persons did you employ besides yourself?

The Witness: At various times, from one to two, sometimes two men and a part-time man.

The Court: All right.

By Mr. Paradise:

Q. Mr. Pierce, what merchandisers did you talk to concerning this station besides Mr. Mumford during the period of time you occupied the station?

A. I couldn't remember all their names. There was Mr. Plumb.

Q. A Mr. Plumb?

A. There was a Mr. Elslip, there was a Mr. Robert Weston, there was a Mr. Harold Gross. They changed too fast. I believe there were some others but their names [fol. 1551] don't come to me at present

Q. Which one of these men that you have just mentioned including Mr. Mumford—which one of them, if any, explained to you the matter of the proper use of Richfield's credit cards?

A. I don't recall that any of them did that. At some time or another they would have a general meeting, usually in a hotel downtown, and give us a dinner and bring up various subjects. At that time they very often would bring up a subject about credit cards.

Q. You are familiar, are you not, with the fact that Richfield has credit cards?

A. Yes, indeed.

Q. You are familiar with the fact that motorists buy gasoline from service stations on credit terms?

A. That is correct.

Q. And sign a credit ticket?

A. Yes, sir.

Q. And, as the service station operator, you use that ticket as a means of your buying gasoline with it from Richfield and it is the equivalent of cash?

A. Correct.

Q. And that Richfield stands the credit loss on that customer if there is any credit loss?

A. Not entirely.

[fol. 1552] Q. What?

A. Very often Richfield has come back to me, say, with $30 and with $50 for credit card charges that the customer had left us to pay, and they come out to me and demanded the cash right now, and got it, although I had never signed an agreement to that effect.

Q. Now, Mr. Mumford, didn't you——

Mr. Hall: May I again advise counsel that this is Mr. Pierce who is on the stand, neither Mr. Mumford nor Mr. Cooper.

The Court: You have changed them so often.

Mr. Paradise: Forgive me, Mr. Pierce. I am very sorry.

The Court: They are all nice people.

Mr. Hall: I have not met Mr. Mumford and I can't concede that, your Honor.

The Court: All right. Go ahead.

By Mr. Paradise:

Q. Isn't it a fact, Mr. Pierce, that every credit ticket that was returned to you covered a matter of automotive accessories or lubricating oil—I will withdraw that. Isn't it a fact that every credit card that was returned to you and which covered lubricating oil represented a sale by you of lubricating oil other than Richfield's lubricating oil?

A. No, not necessarily.

Q. I am not talking about necessarily.

The Court: At all, did it represent at all? Did it repre- [fol. 1553] sent products of others?

The Witness: It represented products that I sold. I couldn't say now, after several years, whether I had sold a quart of——

The Court: Did they explain to you why they picked out the particular credit to charge you with?

The Witness: Yes, they explained to me. They said the customer had refused to pay the bill or he hadn't been issued a new credit card, and I or some member of my employees had made charges on an expired credit card. That was the reason they came back and asked for the money. They never did——

The Court: You know, all credit cards have dates.

The Witness: That is right. They did not ever at any time tell me that they returned the credit card charge slip to me because I had sold the customer another brand other than Richfield oil. In no case did they.

The Court: Most of the credit cards run——

The Witness: Three months.

The Court: Three months?

The Witness: Yes.
The Court: But they expire, even the yearly ones, you see.
The Witness: I know. I have had that.
The Court: They expire, those are competitive cards.
The Witness: You have good judgment.

[fol. 1554] By Mr. Paradise:

Q. Is it not a fact—with whom did you talk about the matter of these returned credit tickets?

A. Well, Mr. Elslip on one occasion, or on more than one occasion, you might say. There was one occasion there where the company had made a mistake. Mr. Elslip was sent out to me to collect the money for several. He would walk into my station and say, "Here, Harold, you have made so many charges to this man. He was not issued a new credit card. The credit card had expired of his old credit card, and we want the amount of these slips," which came to about $30.00 or $40.00. Well, I argued with him and said he had been issued a new credit card. I was very careful to see those things when I made charges, and I was very careful. Occasionally my partner would make a slip. Well, I said, "Richfield does make mistakes." So I checked the man, and we walked over to this gentleman's place of business, to the gentleman who had made the charges and somebody—Mr. Black was the name—and I asked him if he would show us his credit card, which he did, and it was an up-to-date credit card. The office had somehow made a mistake and sent him a credit card when they shouldn't have done it or not intended.

The Court: What was the upshot of the thing?
The Witness: The upshot of the thing was, I didn't have to pay the bills that should have been charged to him. Some one made a mistake and sent the gentleman a credit card [fol. 1555] when they did not intend to, I presume.

By Mr. Paradise:

Q. So Richfield assumed the credit on it?
A. Richfield assumed the credit.
Q. Yes.
A. But if I hadn't been able to prove it, I would have had to pay it.

The Court: Well, give them credit for good intention when you showed them they were wrong. I know you don't like to do it, but you better do it.

By Mr. Paradise:

Q. Who else came out and brought credit memoranda to you and charged them back to you besides Mr. Elslip?

A. Well, I don't just exactly remember, but I believe Howard Gross on one or two occasions did.

Q. And were those also credit tickets on expired cards?

A. Yes, I presume they were. I had no arguments on those other cases, so I paid the money to Richfield and tried to collect it from the customers.

Q. Did you have discussions concerning the returned credit slips with anyone other than Mr. Elslip or Mr. Gross?

A. I can't say definitely whether I did or not. I presume I did. Every once in a while we would make charges to customers without seeing their credit cards. It is a standard [fol. 1556] practice in all service stations.

Mr. Paradise: I move that the witness' last statement be stricken as a conclusion of the witness.

The Court: All after the first sentence may be stricken.

By Mr. Paradise:

Q. Is it not a fact, Mr. Pierce, that credit card tickets were returned to you because they covered sales of Auto-Lite batteries which you carried in your station and which were not recommended by Richfield, and which you were instructed not to carry at the service station?

A. I do not remember any such slips being returned to me.

The Court: Well, let us put it the other way: Do you remember of actually charging a battery which was not something the station—an Exide—is that their battery? I have forgotten now.

Mr. Hall: No. The Goodyear battery was Richfield, your Honor.

Mr. Paradise. It is Goodyear's preferred.

The Court: Oh, it is Goodyear. Some mention was made there of a battery. Was it a Goodyear battery?

The Witness: Yes, sir.

The Court: Did you carry any others?

The Witness: On occasion I did, yes.

The Court: What brand did you carry?

The Witness: Any brand that I could get.

[fol. 1557] The Court: Do you remember at any time ever charging a battery when you had a Goodyear battery in stock, selling a different battery, let us say, an Exide or whatever they are, and charging it up on their credit slip?

The Witness: I presume I did, yes.

The Court: Did they ever raise any objection when the slips went through?

The Witness: I don't recall that they did for that reason, no.

The Court: On the battery would you put down the brand?

The Witness: I would put down "one new battery." I didn't write in the brand name.

The Court: Couldn't they tell by the price?

The Witness: No. Prices are very similar.

The Court: You were foxy. Is there such a difference in price?

The Witness: The prices all range very, very close now.

The Court: I beg pardon?

The Witness: The prices all range very close now. There was a very serious battery shortage shortly after I went into this station, if I may be permitted to say.

The Court: That is right. You went in right in the middle of the war?

The Witness: Yes. There were many times when my entire stock of batteries consisted of one. My partner and [fol. 1558] I would get out and scratch around and try to buy a battery so we could sell a battery.

The Court: Hustle?

The Witness: Well, we had to take what we could get, and be very glad to get that.

The Court: Did you ever have any trouble charging them on the credit slip?

The Witness: No, I don't recall any such case, your Honor.

The Court: All right.

By Mr. Paradise:

Q. That battery shortage did not continue for the four years you occupied the station?

A. No, it did not.

Q. There were plenty of batteries during the last two years of that period, weren't there?

A. Yes, and I sold lots of batteries.

Q. During that last two years you sold lots of batteries that were not Goodyear batteries or Richfield approved batteries?

A. No, I don't believe so. I never had any trouble with batteries. I sold Goodyear batteries and I sold lots of them.

Q. This matter of the sale of your equipment and merchandise at the time you moved out of the Richfield station, who were present on that date?

A. Mr. Lynch. I don't recall his initials. We will say [fol. 1559] the elder, and his son, Mr. Bert Lynch, who was advising his father and I understood was buying the station for his father and made him a gift of that or a loan.

Mr. Paradise: I move that the witness' answer as to what he understood be stricken.

The Court: Oh, no, no. That is his understanding. He has already testified that there were two people there, one of whom was the father and the other was the son.

By Mr. Paradise:

Q. When you say you understood he was buying the station, you mean he was buying the inventory?

A. The equipment.

Q. The inventory of gasoline and the inventory of oil at the station?

A. He was buying anything that he chose to buy from me.

Q. Put it this way, Mr. Pierce: You knew that Richfield continued to own the station buildings and the pumps?

A. That is correct.

Q. And the tanks and everything else that went into it. Mr. Lynch was not buying that?

A. No.

The Court: Of course, I know you have the feeling you got a raw deal, to use the language of the street, isn't that true, on that sale?

The Witness: To a certain extent, yes.

The Court: You understood when you went in there that [fol. 1560] if they wanted to get that away, they could do it on very short notice, didn't you?

The Witness: Well, I really understood when I went in there that I was put on probation for one year as a 24-hour lease, and at the end of one year's lease period I called up Mr. Gilworth that I would like for a longer period lease, and was told that that was the only kind of lease they had, was 24 hours. It was never very satisfactory. You wouldn't lease an apartment for 24 hours, would you?

The Court: Well, I don't know. I am fortunate to have a home that I built long before I went on the bench, and I have lived in it for 27 years. So I do not worry about apartments. I never lived in one.

The Witness: That is a sword hanging over your head when you have that to put up with.

The Court: Well, all right.

Mr. Hall: If your Honor please, there is one statement or question on the record by counsel that I think should be stricken because it is not the truth as placed there by the testimony, and that is the fact that Richfield owns the station.

The Court: That what?

Mr. Hall: That Richfield owns the station.

Mr. DeMartini: We stipulate we leased it.

The Court: It is a conclusion. In the ordinary sense, gentlemen, you want all to bear in mind that which we apply to these various relationships are legal epithets which mean [fol. 1561] very little to the people who deal with companies in regard to the stations and, to all intents and purposes, regardless of whether Richfield has a lease from someone else, which I refer to as the prime lease, the average person who deals with them considers that they own the station and allow them to operate on certain conditions. So I do not think the epithet which a layman applies to it has any significance as far as I am concerned, and ultimately I have got to determine the fact.

I am trying to find that statement that I think Mr. Para-

dise or Mr. DeMartini—I have forgotten who made the opening statement—quoted from Mr. Justice Douglas' opinion in the Masonite case, where he said something about the phrases of lawyers do not mean anything ultimately, that you are concerned with the kind of relationship that is established. So I think we will let it stand.

Mr. Hall: The only objection I had, your Honor, was to pass unchallenged the statement on the record. I know——

The Court: You do not have to challenge it.

Mr. Hall: The epithet was not an epithet of a layman but an epithet of a professional man, if you want to call it an epithet.

The Court: We are not bound by lawyer's epithets, anyway.

Mr. Paradise: I will be glad during the noon hour to ascertain whether——

[fol. 1562] The Court: I instruct juries as to Lawyers' arguments on facts, so I am going to follow that line.

Mr. Paradise: I will be glad to undertake during the noon recess to ascertain whether Richfield owns the fee on the property or hold it under a lease and advise counsel.

Mr. Hall: Mr. Paradise, I am not even interested. I just do not like the statement on the record.

The Court: All right, go ahead.

By Mr. Paradise:

Q. Now, Mr. Pierce, you were telling me who were present at the time of this sale by you of the merchandise and equipment.

A. That is correct.

Q. And you mentioned Mr. Lynch and his son. By the way, it was either Mr. Lynch or Mr. Lynch's son, Mr. Lynch, Jr., who succeeded you as the operator of this same station?

A. That is correct.

Q. Who else were present?

A. Mr. Harold Gross.

Q. You understand Mr. Gross to be a Richfield merchandiser?

A. Yes, sir.

Q. Who else?

A. Mr. Ed Klontz, an employee of mine.

Q. I can't hear that name.

A. Mr. Ed Klontz, K-l-o-n-t-z, he was an employee of [fol. 1563] mine.

Q. He was your employee?

A. Yes, sir.

Q. And who else?

A. I believe there were a couple of other merchandisers but I do not recall their names, Richfield merchandisers. Oh, yes, one other man from Richfield. I just can't think of his name now, but he was an office man, or, I presume, a high-up official of the company.

Q. You do not know who he was?

A. I would recognize his name if I heard it.

Q. But you do not know his name now?

A. I just can't think of it. I know it.

Q. Had you ever seen him before?

A. Oh, yes.

Q. Where had you seen him, at your station?

A. Many times before, at my station and at the downtown office.

Q. Was he a merchandiser?

A. No. I don't know his true capacity. In my terms he was a "big shot" in Richfield Oil Company.

Q. The men that you identified as two other Richfield merchandisers, had you ever met them before?

A. No.

Q. Can you describe them to me?

[fol. 1564] A. No.

Q. All right. What occurred on that day? And by the way, what day was this? Can you give us the date of this?

A. Well, it was—I believe it was around the 1st or 2nd of January.

Q. That was in 1950?

A. Yes.

Q. Was that the date you moved out?

A. Yes.

Q. This conversation that you mentioned in response to Mr. Hall's questions occurred at the station?

A. Yes.

Q. Please tell me what occurred at that time. What were the conversations?

A. On the date of the sale?

Q. Yes.

A. We all lined up in the office and the—well, we will start the sale now, Harold Gross, I believe said——

Q. I can't hear you.

A. I believe Harold Gross was sort of the ringleader. He started in and said, "Well, we will now start the sale." And he started suggesting various accessories on my shelves to Bert Lynch and his father. Now, we started in with one item and he would buy it or he would not buy it, as he saw fit. If he didn't buy it I would have my man take all those items off the shelf and put them in a box and carry them over to the other station. Well, he carried [fol. 1565] almost everything there was over to the other station.

Q. And that went on item by item?

A. Yes. That is as far as the merchandise was concerned. Then when it came to the equipment part——

Q. Now, before you leave the merchandise, did Mr. Gross ever say as to any of those items that he would not permit Mr. Lynch to buy them?

A. No.

Q. He did not say that?

A. No. They had talked that over before.

Mr. Paradise: I move that that be stricken. I am talking about conversations that occurred in your presence, Mr. Pierce.

The Court: Just tell him what took place in front of you.

A. He did not say anything about not permitting him to buy it, no, sir.

By Mr. Paradise:

Q. He did not say that?

A. No, sir.

Q. Did any of the other Richfield people you mentioned but whose names you do not recall, other than Mr. Gross, take part in this conversation?

A. Very little.

Q. It was pretty much between you and Mr. Lynch and Mr. Gross, is that correct?

[fol. 1566] A. Yes.

Q. Did Mr. Gross make any comments concerning price or the condition of the materials?

A. Not that I remember of.

Q. There was no discussion——

A. If there was any question, usually it was asked of me: How much did this item cost you? How much do you want to sell it for? And I would give a price. If he thought it was too much, he would either ask me to reduce the price or he would, I believe, on a couple of occasions—on a couple of occasions, I believe Mr. Gross said, "Well, how would it be if we call up the wholesale house that sold you this merchandise and ask them how much the price was?" Which was agreeable.

Q. When he thought it was too much he would ask you to reduce the price. Who was the "he" you were referring to, Mr. Lynch?

A. Yes, sir.

Q. The type of articles we are talking about here are what are known as accessory items?

A. Yes.

Q. All are known as accessory items?

A. Yes.

Q. We are not talking about anything else?

[fol. 1567] A. There were a few pieces of equipment bought in this same room.

Q. The items which you failed to sell to Mr. Lynch were all items which were not on Richfield's approved list of accessory items which could be sold on Richfield's credit cards, is that not correct?

A. No, not necessarily.

Q. The choice, as I understood from what you formerly said, the choice of whether he purchased was made or was not made with Mr. Lynch?

A. Right.

[fol. 1568] Q. Now, what did you mean when you testified that this whole thing was pretty much of an auction?

A. I meant that Lynch would make an offer, we will say,

—we will say, for example, that Mr. Gross would say, "How much do you want for this item?"

Mr. Lynch would make an offer, and I had an opportunity to either sell it or keep it. If I would say, "$10," Mr. Lynch might say, "I will give you eight," or "I will give you five." If I wanted to sell it for five, I could do so. If I felt that was too much of a loss, I either refused to sell it, or I would sell it for $5.

The Court: Those were only items which were not on the approved list?

The Witness: No, you Honor.

The Court: Or would that also go to items which were on the approved list?

The Witness: It was on some items that were on the approved list.

The Court: Did you take a loss on those, too?

The Witness: Yes, I did.

The Court: In other words, they did not give you the replacement value?

The Witness: No, not in all cases.

By Mr. Paradise:

Q. Those items on which you got less than the full new price at which you had bought them, those had been on [fol. 1569] your shelf for some time, had they not?

A. Some of them had.

Q. The condition was not as good as at the time you bought them?

A. The condition of the item itself was, but in some cases they were—oh, the labels were a little dusty or faded.

The Court: But were they items that had deteriorated?

The Witness: No. Spark plugs will not deteriorate with age, and spark plugs was one of the items.

The Court: What did you have there other than rubber goods, like fan felts, and things like that? They might deteriorate, might they not, by being exposed to the summer heat?

The Witness: No. The summer heat in Seattle is not as extreme as it is here.

The Court: Not as in Los Angeles, no. Still, you have

the month of July there, which is a nice month. I was there in April. I held court there in March.

The Witness: Oh, did you?

The Court: I liked the weather, even though we didn't get too much sun, but it was all right. We are not trying to criticize the climate, but just trying to find out why they insisted on giving you less than the list price on these items, if you know.

[fol. 1570] The Witness: I talked to Mr. Lynch, if I may be allowed to talk free,—I talked to Mr. Lynch several months after he took the station,——

The Court: No, you can't tell us that.

The Witness. Oh.

The Court: At any rate, as far as you remember, they made you reduce the prices, or, I mean they made an offer to you at less than the list price on items which you did not think had deteriorated?

The Witness: Yes, that's true.

By Mr. Paradise:

Q. And when you say they, you are talking about Mr. Lynch and his son, are you not?

A. That's right.

Q. And you are not talking about Mr. Gross, the Richfield man?

A. No.

Q. Now, what happened in connection with the sale of your equipment? By the way, what equipment did you own in that station?

A. I owned everything in the station except the building, the hoist, the air compressor, and the gas pumps.

Q. You did not own the tanks?

A. No, not the gas tanks either.

Q. You didn't own the pumps?

A. I mentioned pumps, I believe.

[fol. 1571] Q. You didn't own any of the fixed items of equipment?

A. No. I did own some of the fixed items, too. I beg your pardon.

Q. What were the items you owned?

A. I owned a cabinet, approximately 5 feet wide by 2 feet deep, with two doors on it.

Q. Was that a wooden cabinet?

A. A wooden cabinet. And a work bench.

Q. And what was the value of that?

A. About 10 or 12 dollars.

Q. I see. What else did you own?

A. I owned a work bench and a tire rack.

Q. What were the values of those?

A. The value of those,—well, I originally bought them for forty some dollars, and there was—there should not have been any depreciation on them, so far as wear and tear is concerned.

I was told by this other gentleman working for Richfield, who I cannot recall his name right now, that I did not buy them in the first place, although I have an inventory to show I did.

In the second place, he said they are fixtures attached to the buildings, and, therefore, you can't move them or take them with you.

[fol. 1572] Q. You are talking about this wooden bench?

A. Yes, and the cabinet.

Q. What equipment and tools did you own in the station?

A. Oh, I owned three big lubester guns, three drains, a battery recharger, fast charger, a hydraulic jack, and several, oh, a great quantity of small tools and electric drills, and extension cords, the usual things that all service stations carry in tube testing.

Q. What in the aggregate had you paid for that equipment?

A. Well, the equipment alone I would estimate over $3,000.

Q. You bought those items over a period of time, during the four to five years in which you had been occupying this station?

A. That's correct. Most of them new.

Q. Those were all movable items of equipment, small items?

A. Well, not all of them. The grease guns were as tall as the thing you are standing in there, and almost as wide, almost as square.

Q. Tell me, did you sell that equipment to Mr. Lynch?

A. No, sir.

Q. None of it?

[fol. 1573] A. He wouldn't buy any of it.

Q. Did you ask him to buy it?

A. Yes, sir.

Q. Did he want to buy it?

A. No. His son took over after we went in the lube room, after leaving the sales rooms, and his son walked in there and said, "We don't want anything in this room. Take it all out." That included tires, new tires, fan belts, all my equipment, any spark plugs, and everything in there. He was very arrogant and, shall we say, hardboiled, and he said, "We don't want anything in this room. Take it all out," at which time Mr. Gross intervened and said, "Well, I think you should buy his tires and fan belts, at least, from him," which he later did do. I had some new tires, and some new inner tubes, some new fan belts. I don't recall if there were any other items of merchandise in that room.

Q. This particular equipment that Mr. Lynch didn't want to buy, had you discussed the purchase with Richfield, the matter of your original purchase of that before you bought the station?

A. May I have that again?

Q. This particular equipment that you had on hand at the time you moved on the station, which Mr. Lynch didn't want to buy, is that the stuff you are talking about?

[fol. 1574] A. Yes.

Q. This wooden bench and this wooden cabinet?

A. Yes.

Q. And these grease guns,—at the time you bought them, did Richfield have knowledge of that?

A. Yes, it did.

Q. Did you talk to anyone in Richfield before buying those, and describe them to Richfield?

A. No. At the time I bought the station from the previous owner, prior to my buying them this gentleman said, or he got kind of tired in watching them itemize these items, and he says, "Mr. Pierce, I have personally checked every item on this inventory, and to save time I would suggest that you buy everything as listed on the inventory, as is."

Q. So we may identify whom you mean when you say "he"—who was the former tenant?

A. Pardon me?

Q. Who was the former operator of the station from whom you bought?

A. I don't recall his name. There were two men.

Q. How?

A. There were two men we bought from.

Q. The one who made the statement,—Mr. Pierce, I would suggest you bear these things in mind—was that the Richfield merchandiser?

[fol. 1575] A. No, they didn't have any merchandisers at that time.

Q. Mr. Mumford?

A. Not Mr. Mumford. There was another company——

Q. There was another employee of Richfield?

A. Yes, sir.

Q. The things you took from the station at the time you departed, this $3,000 worth of equipment included a lot of things you did not buy before you moved into the station——

A. Yes.

Q. Back in 1945?

A. That's right.

Q. Do you recall what proportion there were of new things?

A. New equipment?

Q. Yes.

A. I don't believe there was anything new.

Q. Well, things that——

Mr. Hall: Is this inquiry as to the things he purchased when he purchased the station?

Mr. Paradise: The things he bought after he entered into the lease.

Mr. Hall: Because I want to say that the exhibit to the lease would list those things.

[fol. 1576] The Court: He is just enumerating the things he bought to show their attitude when he bought the station, and their attitude when he left.

The Witness: Possibly I could help the gentleman out there in this respect: Every piece of equipment I had in the station when I moved had been bought by me new since I

originally moved into the station. Is that what you wanted to know?

By Mr. Paradise:

Q. That is what I wanted to know. And it had not been bought by you at the time you moved in?

A. That's correct.

Q. In other words, it was all equipment you bought sometime after you moved into the station?

A. Yes, sir.

Q. And so it wasn't equipment you bought from the former operator of the station?

A. No, sir.

Mr. Paradise: I see. My cross examination may take a little longer, your Honor. Does the court want to take a recess?

The Court: No, we will finish with this witness. We are going to keep longer hours today. Let's finish with this witness, because I told you yesterday that at the close of today we will adjourn until Tuesday, and we want to get [fol. 1577] through with as many witnesses as we can.

By Mr. Paradise:

Q. Now, Mr. Pierce, at the time of this sale was anything else sold?

A. Anything else sold?

Q. Yes, by you to Mr. Lynch and his son.

A. I believe we mentioned all of that. He bought from me the gasoline.

Q. He bought your entire inventory of gasoline?

A. Yes.

Q. Did he buy your entire inventory of oil and grease?

A. Yes, I believe so.

Q. Did you make any effort at the time of this sale to add as an element in the price an amount for good will?

A. No, I didn't.

Q. You were told that you could not?

A. I was told I could not, yet, sir, but I thought—well, here we go again. I am not allowed to say those things again.

Mr. Paradise: Yes, I would like to hear the conversation you had with the Richfield representative.

The Court: You just say it until the lawyers stop you. Don't get educated too fast.

The Witness: I thought it was very unfair.

By Mr. Paradise:

Q. Mr. Pierce, I want your conversations with the Rich- [fol. 1578] field representatives.

Mr. Hall: Do you want to know what he thought?

Mr. Paradise: No, I want to hear what he said.

The Court: If you expressed your thoughts, that is all right. If not, keep them to yourself.

The Witness: Very well.

By Mr. Paradise:

Q. Now, with whom did you talk, Mr. Pierce?

A. At the time of the sale?

Q. No. Well, I will limit it first to the time of the sale. With what Richfield person, Richfield employee, did you talk concerning whether or not you had an element of good will that you could sell?

A. Mr. Gross, Harold Gross.

Q. Now, did you have more than one conversation with Mr. Gross about this item of good will, or just the one time?

A. Yes, I had more than one.

Q. What was the first one, and when did that occur?

A. Oh, many times I had talked to him about why I thought it was right that I should get some good will if I sold my station.

Q. Oh, you are talking now about a period prior to the time you moved out?

A. Yes.

Q. Now, you moved out about the 1st of January, 1950? [fol. 1579] A. That's about right.

Q. How long prior to that time had you discussed this with Mr. Gross?

A. Oh, more than a year before.

Q. More than a year. At that time were you planning on moving out?

A. No.

Q. What occasioned your discussion concerning that?

A. Other Richfield dealers moving out.

Q. How?

A. Other Richfield dealers moving out.

Q. Now, what was your discussion with Mr. Gross on that subject, then?

A. Well, if I recall correctly, when first——

Q. First, Mr. Pierce, can you fix the time and place when it occurred?

A. The time I first started to make the sale from me to Mr. Lynch.

Q. Now, I am talking about the time, a year earlier than that, with yourself and Mr. Gross.

A. Well, on another occasion there was another Richfield dealer who was evicted, we will say, and I talked to Mr. Gross about it, and I said that I thought that he should get something for good will, because he had worked, built the business up from the time he bought it until he sold it.

[fol. 1580] Q. What did Mr. Gross say? First, where did this conversation take place?

A. In the Richfield station at 8555 Greenwood.

Q. That is your station?

A. Yes, sir.

Q. Oh, that is your station?

A. That was my station.

Q. Or was your station?

A. Yes.

Q. What did Mr. Gross say?

A. If I remember, he said it was against the policy of Richfield to allow anyone to collect anything for good will. Why, I never did understand.

Q. Did he say anything further?

A. Not that I remember.

Q. Now, what conversation did you have on this same subject-matter with Mr. Gross on January 1 of 1950, the date of your sale to Mr. Lynch and his son?

A. Mr. Gross started off the conversation with something to the effect that, "Mr. Pierce, do you intend to change the phone number on this station?"

Q. I am sorry. I didn't hear you.

A. Mr. Gross asked me if I intended to change the telephone number, change it from the Richfield station to the Texaco station I was going to across the street. To which I [fol. 1581] replied, "I did." And I replied also and said the reason for that was that I had been there all these years and built up good will, built up that telephone number, and I felt if I couldn't get anything in pay for good will, that I was at least entitled to take the phone number with me, and keep my old customers, which I did do.

Q. That is what you said?

A. Yes, sir.

The Court: And the telephone number was in your name?

The Witness: Yes, it was. I paid the telephone bill every month.

By Mr. Paradise:

Q. Now, did Mr. Gross make any statements at that time?

A. No, I don't recall of any others regarding the good will. [fol. 1582] The Court: By the way, did you carry your name on the station or just "Richfield"? I know that some of your stations there have a name. Most of the Union's stations are "McHale," aren't they?

The Witness: They are McHales, and some of the others have the owner's names. In my case it would be "Pierce."

The Court: Did you have your name on it?

The Witness: No, sir, I didn't. I had asked to have it on a couple of times and was told that that was an unauthorized sign.

By Mr. Paradise:

Q. Were there any further discussions on the occasion of your sale to Mr. Lynch and his son of whether or not you could add to the sales price an item of goodwill?

A. Not that I recall.

Q. When, Mr. Pierce, did you arrange to go over to this Texas station? When did you make your arrangements with the Texas Co.?

A. Three or — days before Christmas 1950, or '49, possibly. Right at the time that I made the move right after I sold it, or just shortly before I sold the Richfield station.

Q. About a week before, you say?

A. Pardon me?

Q. You say it was about a week before you sold?

A. I believe it was less than that, about three or four [fol. 1583] days.

The Court: "Shortly," he said.

The Witness: Before I sold to Lynch.

By Mr. Paradise:

Q. I understood you to say it was before Christmas, which was on December 25th, and I know that you also said you made the sale to Mr. Lynch and the son on January 1st.

A. Yes. Well, I entered into an agreement with the owners of the Texaco station about a week before Christmas.

Q. You dealt directly with the Texas Co., did you not?

A. I dealt directly with the owners of the Texaco station. The only thing I had to do with the Texas Co. was to sign a lease and convince them that I was capable of handling the service station.

Q. Do you know whether the Texas Co. owns that land and building and pumps?

A. I don't believe they do.

Q. Do you know whether the Texas Co. has a lease on the station?

A. I am quite sure they have, the same as the Richfield station. They lease it from the owner in both cases.

Q. When you were talking with the owner of the place——

The Court: Did they have a 24-hour clause with that?

The Witness: No, sir. I have a year's lease with an option to renew.

[fol. 1584] By Mr. Paradise:

Q. When you were talking about the owner of the Texas station is it correct you were talking about a person who operated that station for the Texas Co. in about the same manner as the man operated the Richfield station before you took it over?

A. Very much different.

Mr. Hall: If your Honor please, I figure that is highly objectionable. We are making comparisons here that none of us can put a yardstick on.

The Court: No, no. He is talking about the owner. You see, these men consider that they have a stake in the place regardless of the term of the lease, and he no doubt considered himself owner while he operated. Didn't you?

The Witness: Yes, sir.

The Court: You are talking about yourself and the others in the same capacity, regardless of how the Government considers you or Richfield or Texas considers you——

The Witness: Well, if you would like me to use my own words——

The Court: Here is the quotation that Mr. Paradise gave the other day, which is very, very applicable to the situation. It is a quotation of Mr. Justice Douglas from the Masonite case. It says: "So far as the Sherman Act is concerned, the result would turn not on the skill with which counsel has manipulated the concepts of 'sale' and 'agency' [fol. 1585] but on the significance of the business practices in terms of restraint of trade."

So in determining what this relationship is it is not what you gentlemen call it, it is not what these laymen call it, but what should develop, the type of relationship and the type of control that should develop after all the evidence is in.

So I do not think we ought to stop and quibble about the words a man uses. I have no doubt that each of these men considers himself a businessman, that he has a business development to which he contributes, but that does not decide the relationship from a legal standpoint. I will do that when all the evidence is in and on the basis of all the evidence, not on the basis of what a particular operator—let us call them "operators", that is a good word for them—an operator calls it at one stage or another.

All right, let us go on.

By Mr. Paradise:

Q. When did you first make your arrangement with the Texas Co., then? I mean when did you first talk to the Texas Co. about moving into that station?

A. Oh, I would say probably three or four days before Christmas.

Q. Was that the day on which you signed your lease on the station?

A. No.

[fol. 1586] Q. With the Texas Co., or was that the day when you first talked to them?

A. That is the day when I first talked to them.

Q. At the time you moved out of this Richfield station did you take with you over to the Texas station all of the equipment and all of the automotive accessories that you had in the Richfield station and which Mr. Lynch and his son failed to buy?

A. No.

Q. You did not?

A. No.

Q. What did you do with the excess?

A. The sale had not been consummated at that time. Aren't we still talking about three or four days before Christmas?

The Court: He is talking about after you completed the sale. What did you do with the excessive equipment which he would not buy?

The Witness: I took part of it home and part of it over to the Texas station.

The Court: All right.

By Mr. Paradise:

Q. And that which you took home you have since moved into the Texas station?

A. Some of it. I still have some of it at home.

The Court: Is it a smaller station, or did you have so [fol. 1587] much excess equipment?

The Witness: Because Mr. Lynch and his son refused to buy the equipment from me and I had no other way to sell it. I have been trying to sell it since.

The Court: Didn't you need it on the other station?

The Witness: No, I didn't. The other station was completely equipped.

The Court: Completely equipped.

The Witness: I bought everything that was in it.

The Court: All right.

By Mr. Paradise:

Q. Did you buy additional equipment from the outgoing operator of the Texas station?

A. Yes.

Q. And that is the reason why you had a surplus?

A. Yes.

Mr. Paradise: No further questions.

The Court: All right. Any redirect?

Mr. Hall: Just very short, your Honor.

The Court: All right.

Mr. Hall: I will try to confine it to just a couple of questions.

Redirect examination.

By Mr. Hall:

Q. I want to clear up one matter on the record, Mr. Pierce, on the matter of this lease that Mr. Paradise questioned [fol. 1588] you about, stating that there was a reduction of rent. According to the lease, when you went in there you paid $50 plus one cent over 5,000, is that right?

A. I believe so.

Q. And then, as you testified, it went up to $100 flat rate, and then Mr. Paradise said——

Mr. Paradise: I object to that, if the court please, because that assumes.

The Court: I do not like this method of examination. You seem to want to sum up everything you said before, and I am not interested. That is not proper cross examination.

Mr. Hall: Your Honor, I was only trying to clear up the one thing.

The Court: You are not clearing up. You are merely repeating into the record what you think is a summary of his testimony, and I do not need a summary of testimony, if you please.

Mr. Hall: I am very sorry if your Honor got that impression.

The Court: Then, all right. I will stop the examination, then, and prohibit examination only as to something that is actually rebuttal.

Mr. Hall: That is what I intend to.

The Court: Then strike out what you have already said, because it is an attempt to summarize testimony of wit- [fol. 1589] nesses and I do not approve a lawyer doing that, even before a jury. It is absolutely improper.

Mr. Hall: May I ask your Honor for my own instruction——

The Court: I am not answering any questions. You know how to conduct the examination. You have been in this court often enough. You have been doing that with every witness you have examined since yesterday. It is time you stopped it. You repeat every answer just by way of emphasis, and I do not approve of that. That is all there is to it.

Mr. Hall: I have no further questions, your Honor.

The Court: All right.

Mr. Hall: I am very sorry if your Honor got that impression. I apologize. I had no intention.

The Court: All right, step down. 2:00 o'clock.

(Whereupon a recess was taken until 2:00 p. m. of the same day, Friday, May 11, 1951.)

[fol. 1590] Los Angeles, California, Friday, May 11, 1951. 2:00 o'clock.

Mr. Alexander: The government will call Lt. Pittman.

Thomas L. Pittman, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination.

The Clerk: Your full name, please?

The Witness: Thomas L. Pittman.

The Clerk: Thomas L.—how do you spell your last name?

The Witness: P-i-t-t-m-a-n.

The Clerk: Thank you.

By Mr. Alexander:

Q. Will you state your residence, Lieutenant?

A. El Paso, Texas.

Q. Have you ever been in the past employed by the Richfield Oil Corporation?

A. I have.

Q. When and where was that employment, Lieutenant?

A. It was in Phoenix, Arizona, from April, 1948, until February of 1950.

Q. In what capacity were you employed?

[fol. 1591] A. Branch merchandiser.

Q. Who was your superior in that capacity?

A. Mr. W. L. Gallaher.

Q. Lieutenant, calling your attention to the period you began your employment, did you have any conversations with Mr. Gallaher in connection with the manner in which you should perform your duties.

A. Yes.

Q. Will you explain to the court what was the nature of your duties as was explained to you by Mr. Gallaher?

A. Well, I was to solicit, install, train, and ultimately supervise dealers in service station operation.

Q. I hand you, Lieutenant, Government's Exhibits 1-E, 1-F, and 1-G in evidence, and ask you to examine them, please.

Are you familiar with these forms, sir?

A. I am.

Q. Have you ever executed any of these forms on behalf of the Richfield Oil Corporation?

A. Many times.

Q. Approximately how many of this type of form have you executed?

A. I would say from 20 to possibly 25.

Q. Will you describe to the court, in substance, the conversation that would take place between you and a signer, a lessee, of one of these agreements during the period you [fol. 1592] served as the branch manager at Phoenix, Arizona?

A. You mean in regard to this particular form?

Q. Any one of those three forms, Lieutenant.

A. Well, the first thing I would bring out to him would be the terms of this particular agreement, and the fact that it was a 24-hour lease and could be canceled by any party, that is, either party. I would explain to him at that same time how he could cancel it in the event that he ever desired to do so.

The next thing I would take up would be the rental agreement here, and possibly the next item would be the maintenance of our property that he would be a tenant of.

Q. Anything further?

A. I think that's about all I would discuss with him on this particular form.

[fol. 1593] Q. Lieutenant, does that Form provide for any purchase or sale of petroleum products by the Richfield Oil Corporation?

A. As far as I know it does not. It has been a long time since I have read one.

Q. In your installation, as you stated, was one of your duties installing operators?

A. That is right.

Q. Were you at that time considering operators to be the parties who had executed one of these tenancy leases?

A. Yes.

Q. Will you describe what was the nature of the conversation you would have in connection with the type of products that should be purchased and sold by this tenant?

A. Those, naturally, would be Richfield products, their petroleum products.

Q. Excuse me. Just state what was generally the conversation that would take place.

A. Well, I would explain to the incoming operator that he was expected to purchase his products from us, Richfield Oil Corporation, and no one else as far as petroleum products were concerned. And furthermore, that he should purchase his TBA from a person authorized to handle that particular line. That in the event we could not supply him with any particular TBA items that he should need, that he should go elsewhere, that he should go elsewhere and pur-

[fol. 1594] chase them rather than to miss a sale. Other than that he was to purchase them from us.

Q. By "us" you mean the Richfield Oil Corporation?

A. That is right.

Q. Lieutenant, will you describe the terms of the supervisorial duties which you related you also performed for the Richfield Oil Corporation? Is my question clear?

A. I do not believe it is.

Q. Well, you have been stating that you have installed tenants in stations.

A. That is right.

Q. And that you have arranged for the products that shall be bought, etc. What do you do other than this type of activity, or do you do anything else?

A. I see that the dealer is in uniform at all times, that his station is kept properly policed, that is, that it is kept clean and operated in an orderly manner, that the dealer himself is acquainted with our products and he is acquainted with the servicing of his customers' cars. In other words, that he knows what he is doing in the station as far as service is concerned. That he is operating reasonable hours to service his neighborhood or his trade, that he maintains a degree of loyalty towards our company. I think that would pretty well summarize it.

Q. Lieutenant, do you make periodic inspections of these stations to determine these factors you just stated?

[fol. 1595] A. I did, yes.

Q. Have you observed in the tenant stations any petroleum products other than those of Richfield?

A. At various times I have, yes.

Q. What action have you taken in those instances?

A. Well, it depended on the situation.

Q. Well, let us take a situation.

A. Well, I will take the situation in one of my particular stations. The dealer's name was Sidney Potkins.

Mr. DeMartini: I am sorry. I did not hear it.

A. Sidney Potkins. I found some Triton motor oil in his station, a number of cases of it and, as I recall, I asked him what reason he had to have it in his station. And he explained to me that he had one particular customer that would not use anything else and that he had approximately 30 cars and trucks, servicing them, and we were selling them gasoline, which I happened to know was true as far as the gasoline was concerned. So I immediately took the dealer and we went over to see this particular customer and attempted to sell them our brand of oil, which they refused to buy. They said that they had been using this Royal Triton for a number of years and they believed it to be superior to our motor oil. Therefore, as I say, I was unsuccessful in selling them. So I told him to continue to use the motor oil, in so much as we were selling them gaso-

line, but to hide it, keep it out of the way, that it looks bad setting out, and I didn't want to have to see it or I didn't [fol. 1596] want anyone else to see it. So he did. He was very cooperative about it. Sometime later I was ultimately able to sell this particular company on our oil and, as a result, why, he got the oil out of the station.

Q. Were there frequent occurrences of this nature, Lieutenant, with your products?

A. No.

Q. There were not?

A. That was very unusual.

[fol. 1597] Cross-examination.

By Mr. DeMartini:

Q. Lieutenant, you said that you executed these Form 542 leases. You don't mean you signed them on behalf of the company?

A. I mean that I took them home and typed them out, and had the dealers sign them.

Q. In other words, you prepared them?

A. That's right, I prepared them.

Q. And someone else at Richfield executed them?

A. That's right.

Q. One of your superiors. In connection with your function as a merchandiser, you dealt only with the L-O stations; is that correct?

A. That's correct.

Q. You know what a 337 and a 3-C service station dealer is?

A. I do.

Q. —as we use that term?

A. Yes.

Q. And you had no connections at all with that type of dealer?

A. None.

Q. And the Mr. Popkin to whom you refer was an operator under an L-O lease; is that correct?

[fol. 1598] A. He was an L-O station operator.

Q. And he was at the time these transactions you refer to took place?

A. That's correct.

Q. Referring back—let me ask you this first: What area did your duties encompass?

A. The city of Phoenix, and I had one station in Tolleson, Arizona, about 10 miles out of Phoenix.

Q. About how many L-O stations were in that area?

A. I had 23 at one time, and they ultimately reduced it to 13; that is, another merchandiser was hired to relieve me of a number of the stations.

Q. As a part of your duties, did you interview prospective applicants for these stations?

A. I did.

Q. As a part of your duties, and in accordance with the instructions which you stated you received, what was the nature of the interview. What did you ask them, or carrying it further, did you ask them anything about their reputation?

A. Well, the first thing I always inquired about was their financial status, and I always made out a particular form. I don't recall the name of it. I took credit references from them, and personal references, and inquired as to where they had formerly been employed, and how much experience they had had in our particular line of business. [fol. 1599] Q. Did you make inquiry as to their family, and their reputation, and their character?

A. Yes, sir.

Q. Did you personally observe them as to cleanliness?

A. Yes, sir.

Q. Why did you do all those things?

A. I checked into their family affairs mainly to satisfy myself that they might be stable, in the event I put them in a station. I observed their cleanliness. I felt if a man was clean about himself, in all probability he might be clean with the station.

Q. Now, it was one of your duties, was it not, to also install these operators?

A. Yes, sir.

Q. At or before the time of the installation, did you discuss with them or give any directions to them with respect to their operation of the station, generally?

A. I did.

Q. Did that include this matter of maintenance of the station?

A. It did.

Q. What did you tell them with respect to maintenance?

A. If they broke a window, they were to replace it. If they burned out a light bulb, it was to be replaced by them. The stationary equipment, as far as the air compressor, the [fol. 1600] hoist, and the pumps would be maintained by us, and that their station was to be kept clean; that the equipment we owned in the station was to be kept clean and properly serviced. As an example, our air compressor was to be serviced at periodic times, and that at various times I would inspect that air compressor and make sure that it was serviced. That our restrooms were to be kept up in proper condition.

Q. Did you give them any advice or instructions with respect to the time, the number of hours per day and the number of days per week that the station was to — kept open?

A. Yes, sir.

Q. Did those instructions vary from time to time, dependent upon the nature of the location of the station?

A. It depended on the location and the time of the year.

Q. Did you give them any instructions with respect to the prescribed Richfield service station uniform?

A. I did.

Q. Did you discuss the matter of the display of signs, other than Richfield signs, at the station?

A. I explained that there were to be no signs posted on the premises without our approval, as I recall.

Q. Did you also explain to them that from time to time they would be called upon by you or another merchandiser [fol. 1601] for the purpose of inspecting the station?

A. Yes.

Q. Did you explain to them the 24-hour clause in the leases which you have been shown?

A. Yes, sir.

Q. What did you tell them with respect to those privileges of termination which were afforded to both parties?

A. That we could terminate in 24 hours if their operation wasn't satisfactory; that they, in turn, could terminate in 24 hours if they were dissatisfied with their operation, providing we had a dealer available for them.

Q. You state you installed dealers. By installation, you

mean that you were present at the time they opened their stations; is that correct?

A. That's right.

Q. Would you be or attempt to be of any assistance to him at that time?

A. Yes.

Q. What would you do?

A. I aided them. I acted more or less as a middleman in there. I aided them in pricing the items, and I aided them in verifying the items that were on the 542-A, B, C, D.

Q. Did you ever wear a Richfield uniform yourself?

A. I always did on station changes.

[fol. 1602] Q. Did you make any effort to assist them at the inception of their lease in the operation of the station for any period of time?

A. Many times.

Q. How long would you stay there, normally?

A. It varied on the type or character of dealer that I had.

Q. What was the period of variance, Lieutenant?

A. From one day to ten days. I have stayed as long as ten days with a dealer.

Q. What would you do during that time?

A. Work with them out on the island, sell merchandise as though I were an employee of the station, explain to them as I went along.

Q. Did you ever participate in what we call neighborhood solicitation? You know what neighborhood solicitation is?

A. I have probably made over 1,000 door-to-door calls with dealers.

Q. That is in the area immediately surrounding the station; is that correct?

A. That's right.

Q. And the purpose of it is to secure customers for the station; is that correct?

A. That's right.

[fol. 1603] Q. In connection with the instructions that you received, were you advised or instructed to inform these operators or prospective operators of the reason for the 24-hour lease, as related to the investment that we had in the station?

A. Will you read that question, please?

(The question was read.)

Q. By "we" I mean Richfield.

Mr. DeMartini: I am sorry, your Honor. I wasn't conscious I used that term.

By Mr. DeMartini:

Q. That Richfield had?

A. I don't recall if I ever brought out the relationship of the investment.

[fol. 1604] Q. Do you know what the term "blue sky" means?

A. I sure do.

Q. What does "blue sky" mean?

A. That is selling your goodwill along with your business.

Q. At the time that you would procure a prospective lessee for a service station did you advise him in any manner as to whether he should or should not pay for what you call blue sky or goodwill?

A. We always advise him that.

Q. What do you advise him?

A. Told him that it was against the principles of our company and most other major oil companies.

Q. "Against the principles of our company" to do what? You have not finished it.

A. To sell his station with blue sky. In the event that he wanted to do that, he could not collect any blue sky.

Q. At the time of installation of a dealer—an operator, rather, were you instructed to advise him as to the policy of the company with respect to assisting him in selling to a successive lessee the gasoline, Richfield lubricating oils and approved merchandise that he then had on hand?

A. Well, he was informed of that during the process of preparing him to enter the station.

Q. Let me carry that a little further, Lieutenant. He was informed that—you are speaking now of a prospective [fol. 1605] lessee going into a station and buying out?

A. As I understand you, you are asking me if I informed the dealer that, in other words, let him know that he is taking no chance with his merchandise that he has pur-

chased, that in the event he wanted out, he could sell that to the incoming dealer.

Q. That is correct.

A. Yes, we always explained that to them.

Mr. DeMartini: That is all. Wait a minute.

The Court: Any redirect?

Mr. DeMartini: One further question, if your Honor please.

The Court: Very well.

By Mr. DeMartini:

Q. What equipment is the operator of the station normally requested or required to purchase for the operation of the station at the time of his installation? What does it consist of?

A. I insisted that they buy all movable equipment, with the exception of hand tools, and that was entirely up to the dealer and the outgoing dealer.

Q. What is movable equipment? What does that consist of?

A. The lubrication equipment, the grease guns, all the lubesters, battery charger, jacks, tire gauges, air hoses.

Q. He never was required or instructed to purchase the [fol. 1606] pumps or tanks or fixtures of any nature?

A. No, sir, not that I ever knew of.

Mr. DeMartini: That is all.

The Court: All right.

Mr. Alexander: Just a couple of questions, your Honor.

Redirect examination.

By Mr. Alexander:

Q. Lieutenant, these instructions that Mr. DeMartini has been alluding to that you gave the operator, the lessee-tenant at the time he took possession, were they in the form of writing to you?

A. No.

Q. Were these instructions given to each and every tenant who took occupation of the station?

A. They were in my branch. We had a list—you say,

were they in writing? We had a list of different items we were to cover with the dealer, but no way that we were to handle it with them.

Q. Were these in the form of instructions to you or just subject matter to be discussed?

A. They were subject matter to be discussed.

Q. Possibly you could have discussed all of them and possibly not have discussed all of them?

A. That is correct.

Q. These instructions that you gave to the tenant as the [fol. 1607] prospective purchase of petroleum products of Richfield were not contained in the written documents 542 that you negotiated and which were subsequently signed by him, were they?

A. Some of them are and some of them are not.

Q. Which ones are contained there?

A. Well, the maintenance of his premises is contained in here.

Q. Is there any provision in that written document before you of the type that you have executed pertaining to the purchase of gasoline or petroleum products and automotive accessories?

A. As I said before, I don't recall. It has been a long time. I would have to read that over and see.

Mr. DeMartini: May I ask one further question, your Honor?

The Court: All right.

Mr. DeMartini: Oh, I am sorry.

Mr. Alexander: No, I am through.

The Court: All right.

Mr. DeMartini: I don't know whether he is through or not.

The Court: Are you? All right, you ask the question.

Recross-examination.

By Mr. DeMartini:

Q. The merchandise was specified from time to time, was it not, Lieutenant?

[fol. 1608] A. Yes, sir.

Q. Did you use the form 205?

A. Yes, sir.

Q. How was that form used?

A. I used it a little different from the company policy. I used to go around to the dealer and I would make that form out and not give him a very good grade on it, to impress upon him that I did not wish to turn in a 205 of that nature, and ask him to make improvements and I would come back at a later date and make one out, which I usually did.

Mr. DeMartini: That is all.

The Court: All right.

Mr. Alexander: One last question, if your Honor please.

Q. These prospective tenants oftentimes, many times, invested monies in this deal that they entered into, did they not, prospective tenants?

A. Yes.

Q. They invested money in merchandise with Richfield?

A. Yes.

Mr. Alexander: That is all.

The Court: All right.

Mr. Hall: If your Honor please, the Government would like to call one witness out of regular order of proof, because he is from Spokane. He arrived here unexpectedly to us. If it is all right with you, I would like to call him.

[fol. 1609] The Court: All right.

Mr. Hall: Mr. Green.

Herman E. Green, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: Your full name?

The Witness: Herman E. Green.

Direct examination.

By Mr. Hall:

Q. Your residence, Mr. Green?

A. South 308 Ray, Spokane.

The Court: I think Spokane is the one city that has no duplications, as far as I know. There are all sorts of duplicate names of cities. I never heard of a Spokane.

Mr. Hall: I do not believe I ever did, your Honor.

The Court: You travel through the east and you will find Oaklands and you will find Glendales and all sorts of California cities are duplicated all over, but I have never heard of but one Spokane, Spokane, Washington. All right.

By Mr. Hall:

Q. Mr. Green, the attorney for Richfield did not get your address. Will you speak just a little louder, please?

A. South 308 Ray, Spokane.

Mr. Paradise: Thank you.

By Mr. Hall:

Q. Your present occupation?

[fol. 1610] A. Dealer salesman.

Q. With whom?

A. Firestone Stores.

Mr. Paradise: We still can't hear you, Mr. Green.

The Witness: I am sorry, sir.

The Court: Speak loud enough so we can hear you.

A. Dealer salesman for Firestone Stores.

By Mr. Hall:

Q. During the year 1950 were you employed by the Quality Supply Co.?

A. Yes, sir.

Q. In what capacity?

A. Salesman.

Q. Where is the location of the Quality Supply Co.?

A. 919 East Sprague.

Q. In Spokane, Washington?

A. In Spokane, Washington.

Q. What were some of the main items of tires, batteries and accessories which they handle? Name the brand.

A. Firestone tires and tubes, Willard batteries, Champion, AutO-Lite, and A-C spark plugs, Fram Purolator and A-C filters, Whitaker battery cables. Then we had some novelty items.

Q. What about fan belts, what brands?

A. Gates fan belts.

Q. I think that is sufficient for our purpose here, Mr. [fol. 1611] Green. Did you in your sales efforts make any attempts to sell any of these brands which you had to any operators of Richfield service stations?

A. I did.

Mr. Paradise: Objected to as having no proper foundation, if the court please, unless the particular station and the type of station is first shown.

The Court: This is a preliminary question. Go ahead. He can particularize afterwards.

By Mr. Hall:

Q. Did you attempt to sell any of your articles to Mr. Ernest Heinekin?

A. I did.

Q. Will you tell us when that was and your experience?

Mr. Paradise: I object to the question as being compound and for lack of foundation.

The Court: Overruled. Go ahead.

Mr. Paradise: He is asking for what his experience was, your Honor, in addition to when, is that correct?

By Mr. Hall:

Q. When did you make this sale?

A. In August 1950.

Q. What did you sell?

A. I sold 10 Willard batteries.

Q. Were those batteries delivered, as far as you know, to Mr. Heinekin?

A. Yes.

[fol. 1612] Q. Did you at any subsequent time call back at that station?

A. I did.

Q. How soon after that?

A. One week later.

Q. Did you talk to Mr. Heinekin?

A. Yes, sir.

Q. Were your batteries in the station?

A. My batteries were in the station.

Mr. Paradise: May I object to the question, your Honor. That, I think, will go to a whole series of questions and witnesses, and in order to state the defendant's position, the objection is based upon the testimony of any of the so-called competitor witnesses, of which we are advised that there will be a great number by the Government's answers to interrogatories, for lack of foundation. And that is on the basis that we feel that the contract of the particular service station dealer must first be offered to this court, to disclose the nature of Richfield's relationship with that particular dealer, before the competitor——

The Court: Of course, that was based upon the idea of your contention that is any different than these contracts. The Government contends there is no essential difference and the Government is entitled, until I have ruled upon the question whether any of this series of contracts is different [fol. 1613] from the others, to present the evidence upon that theory.

Mr. Paradise: Of course, the Government has already offered two types of contract. One is the written contract covering L-O stations and the second is the written contract covering the—I won't call them independent—I will call them the 3-C stations and the 337 stations. And, as the court well knows, in both latter two types of contracts we have a written sales contract between Richfield and the service station dealer. We know that that written contract calls for the sale of a specified quantity of gasoline. We know that the Government is charging, in addition to the written contract, that there is a side oral agreement between Richfield and that particular service station dealer.

It may very well be that my objection at this time is inappropriate, because we know and the court knows and the record shows that Mr. Heinekin, concerning whom this witness is testifying, was an L-O operator.

The Court: That is right.

Mr. Paradise: And he so appeared here. But if a question should be asked about the name of a particular service station dealer with whom the court and counsel are not familiar, then we do not know whether we are dealing with an L-O operator as to which we have admitted full control over the type of products, or whether we are dealing with a

337 dealer or a 3-C dealer as to which we have a written contract to sell him a specified quantity.

[fol. 1614] The Court: I think that is a good warning. I think from now on we ought to begin to identify what we are talking about, especially in view of the statement yesterday by Mr. Dixon that they would follow the suggestion I made, that the pattern be established, and in view of your own statement of the nature of your claim and your own admission that this pattern as to which we have heard testimony applied to the whole group, that it would be more revealing if it were stated that the testimony relates to the particular type station, whether or not it was brought out through the witness or counsel's statement.

That is the way I do in these cases with multiple counts, whether they are a civil action or a criminal action. I just got through trying a mail fraud case last week, where the government had 49 counts to start with. I got them to pick out their best 15 counts, and then as they called their witnesses, they would say, "this relates to count 1," or "2," and it is very helpful to do that, especially when you have set the pattern after a week's testimony.

But it is evident that this gentleman is testifying as to a witness who has already been here. In other words, what they are trying to do is to follow up and have him state the experience he had with the product he tried to sell.

[fol. 1615] Mr. Paradise: Yes.

Mr. Hall: If your Honor please, Mr. Paradise was anticipating somewhat another question that I will ask about another station operator who is not in court.

The Court: All right.

Mr. Hall: And since the witness is not here, perhaps we had better decide what I shall be permitted to ask about that.

The Court: If you want to put him on a little out of order, because the man comes from a distance, there is no objection. You will have to tie it up later on, of course.

Mr. Hall: Yes, indeed.

The Court: I like to observe the rules of evidence and the rules as to proof, but ultimately they are all a means to an end. I don't want it to become a fetish as to a procedure.

Mr. Paradise: I was merely going to add this one thing, in view of Mr. Hall's statement concerning his asking this

witness concerning other dealers. Prior to the commencement of the trial the government subpoenaed various contracts relating to various service station dealers. We are prepared to produce those contracts, and it is our suggestion that a proper foundation be laid before a witness is permitted to testify concerning a particular type station, and that the type of contract and the particular contract be offered.

[fol. 1616] The Court: All right. Go ahead. Let's get back to the witness. I have forgotten all about it.

The Reporter: The question was answered, your Honor.

The Court: Read the question and the answer.

(The question and answer were read.)

The Court: Go on from there. Had you finished your answer?

The Witness: Yes, sir.

The Court: Then you go on, Mr. Hall.

By Mr. Hall:

Q. Did you have any conversation with Mr. Heinekin about those batteries?

A. Yes, sir.

Q. Did you make any statements to him about the batteries?

A. Yes, sir.

Q. Will you state what statement you made?

A. I commented about the brand name being turned toward the wall. That is not the proper way to display merchandise.

Q. We are having difficulty in hearing you, Mr. Green.

A. I commented about the brand name on the battery being turned to the wall. That is not a proper way to display merchandise.

Q. What was his explanation?

A. His explanation to that was that it was a compromise [fol. 1617] arrived at between he and the Richfield representative, to keep from sending those batteries back or returning them to the company I represented.

Q. Were you ever able to make any other sales to Mr. Heinekin?

A. Very few other sales.

Q. What sales you made, were they the same brand names of those that were approved by Richfield?

A. Yes.

Q. Did you handle oils?

A. No.

Q. No oils at all? Did you attempt to make any other sales to any other Richfield dealers?

A. Yes, I have, many times.

Q. Will you name whom you made those attempts upon?

A. Red Horwath, for one.

Q. What was his address?

A. It is in the 3000 block, about 3023, I think, East Sprague?

Q. East Sprague?

A. Yes, sir.

Q. Were you successful in making any sales there?

A. I sold him a couple novelty items that were not carried by Leo Hobson. That is all the sales I was able to make there.

[fol. 1618] Q. Did Mr. Horwath make any statements to you?

A. He did.

Q. About your sales efforts? What did he say?

A. He told me, in view of the fact that I lived in the vicinity in which he operated his station, he would like to buy from me, but was unable to and still comply with the Richfield rules.

Mr. Hall: Your witness.

Mr. Paradise: May it be stipulated by the plaintiffs, Mr. Hall, that Mr. Horwath, concerning whom the witness has already testified, is also an L-O operator at the location mentioned?

Mr. Hall: Yes.

Mr. Paradise: And he is operating under a form 542 lease, print date of 1-47?

Mr. Hall: I can't assure you of the print date.

Mr. Paradise: I will show you.

Mr. Hall: I assume it is correct.

(The document was handed to counsel.)

Mr. Hall: He has operated under two different leases but, as I understand, they were both 542.

Mr. Paradise: And that he was so operating under this lease as an L-O operator at the time this witness has testified to?

Mr. Hall: Yes.

[fol. 1619] Mr. Paradise: Thank you.

Cross-examination.

By Mr. Paradise:

Q. Your present occupation, Mr. Green, is as a salesman for Firestone Stores?

A. Yes, sir.

Q. That is, the Firestone Tire Company?

A. Yes, sir.

Q. The Firestone Tire Company maintains retail stores?

A. Yes, sir.

Q. The Goodyear Tire Company maintains retail stores?

A. Yes, sir.

Q. In the course of your activities as a salesman, have you attempted to sell Firestone Tires to the Goodyear stores?

A. Not to the Goodyear stores.

Q. During the course of your occupation, has the Goodyear Company attempted to sell Goodyear tires to the Firestone stores?

A. Not to my knowledge.

Mr. Paradise: That is all.

Mr. Hall: That is all. Thank you very much, Mr. Green.

The Court: You may be excused.

[fol. 1620] The Witness: Thank you.

(Witness excused.)

Mr. Somerville: The government calls as its next witness George A. Bauer.

GEORGE A. BAUER, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct Examination:

The Clerk: Your full name, please.
The Witness: George A. Bauer, B-a-u-e-r.
The Clerk: Thank you.

By Mr. Somerville:

Q. What is your name, sir?
A. George A. Bauer.
Q. Where do you reside?
A. 6281 North Bion Avenue, San Gabriel, California.
Q. Mr. Bauer, have you at any time been the lessee of a Richfield service station?
A. Yes, I have.
Q. When did you first become a lessee of a Richfield Service station?
A. September 3, 1949.

Mr. Somerville: May it be stipulated, counsel, that [fol. 1621] George A. Bauer entered into a Form 542 lease, print date 1-49, which is the same form of lease as is embodied in Government's Exhibit 1-G?
Mr. Paradise: So stipulated. That is an L-O form of lease?
Mr. Somerville: Yes. May it be also stipulated that this lease was entered into October 1, 1949, and that such lease contains a provision for a rental of $125, plus one cent per gallon for each gallon in excess of 12,500 gallons?
Mr. Paradise: Yes, so stipulated.
Mr. Somerville: May it be further stipulated that Mr. Bauer entered into a Form 542 lease on September 3, 1949, print date 1-49, containing a provision for a flat rental of $175 per month.
Mr. Paradise: That appears to be the case, counsel. Do both of these leases cover the same location?
The Witness: Yes.
Mr. Somerville: Yes, they do. May the record also show that there is a Form 542 lease executed on October 6, 1949,

containing the provision of a rental of $125 a month, plus one cent per gallon for each gallon in excess of 12,500 gallons? Is that so stipulated, counsel?

Mr. Paradise: Yes. Yes, there appears to be an amendment executed by Richfield and Mr. Bauer to the effect that you mentioned, and which is dated October 6, 1949. I don't [fol. 1622] quite understand it, however, because there also appears to be a separate lease covering the same location, dated October 1, 1949, and containing the same rental as you have last mentioned, that is, $125 plus one cent per gallon over 12,500 gallons. Maybe the witness can clear that up for us.

Mr. Somerville: All right.

By Mr. Somerville:

Q. Mr. Bauer, at the time you entered into this lease, would you indicate to the court the rental that you paid and the date that you first entered into a lease? Will you look those over (handing documents to witness)?

A. Well, this last document here, the one that is pinned to the back, is dated September 3, and was the original document, calling for—wait a minute—calling for $175 a month flat rental.

Q. Did you pay $175 a month rent under that lease?

A. I did.

Q. For how long did you continue to pay that rental?

A. I believe it was up to—up until October 1st, when they gave me a different lease, calling for $125 a month plus one cent per gallon on all over 12,500 gallons purchased in a month's time.

Q. Thereafter, Mr. Bauer, what rental did you pay?

A. $125 per month, plus one cent per gallon over 12,500 [fol. 1623] gallons purchased.

Q. When you took over this station, what gallonage were you pumping the first month?

A. The first month that I was in there we pumped 12,300, approximately.

Q. Then did the gallonage increase?

A. Yes, it did.

Q. What would you say would be the maximum gallonage during your period?

A. On my sales or purchases from the company? Which are you referring to?

Q. The maximum gallonage upon which rentals would be figured.

A. That would be the purchases from the company. It would be 16,800, I believe. The gasoline was delivered in 4,200-gallon lots, and there would be four deliveries. That would bring it up to 16,800.

Q. Mr. Bauer, did you purchase gasoline and other petroleum products from Richfield?

A. Yes, I did.

Q. At the time you entered into the station, were you told where you could purchase these supplies?

A. Yes, I was told where I could purchase the gasoline and oil.

Q. Where did you purchase it?

[fol. 1624] A. From the Richfield Oil Corporation.

Q. At the time you entered into the station, who installed you, or who turned over the premises to you?

A. The merchandiser's name at that time was Mr. Ed Weir.

Q. Mr. Ed Weir. At the time the premises were turned over to you, was there anything said about your delivering or selling automotive accessories through that service station?

A. Yes.

Q. What was said concerning that?

A. Well, that we were expected to sell accessories, that you wouldn't make a living on gasoline and oil alone.

Q. Were you told what accessories you should handle?

A. There was an approved list shown to me of the articles that were approved by Richfield, and that could be handled in the service station, could be sold through the service station.

Q. Were you told where to obtain your supply of those approved accessories?

A. I was told where I could obtain the supply of those approved accessories, and I was taken over and introduced to Mr. Jimmie Jones, the then TBA dealer in the Pasadena area.

Q. Thereafter did you purchase approved accessories [fol. 1625] from Mr. Jones?

A. From Mr. Jones I purchased approved accessories, yes, sir.

Q. Mr. Bauer, did you invest something in the station? Did it represent an investment when you took over the station?

A. Yes, sir.

Mr. Paradise: I object to the question in the form in which it is placed, as a conclusion as to whether it constituted an investment in the station.

The Court: Overruled.

By Mr. Somerville:

Q. Just tell us of the investment that you had in that station, please.

A. Over all or from the—what I bought from Mr. Meadowbrook? Which figure did you want?

The Court: Let's start with what you bought from Mr. Meadowbrook.

The Witness: From Mr. Meadowbrook it cost me in the neighborhood of $2,000.

By Mr. Somerville:

O. Who is Mr. Meadowbrook?

A. Mr. Meadowbrook was the former owner of that certain Richfield station that I had.

Q. What did the purchase consist of?

A. It consisted of gasoline, both the regular and the ethyl, and lubricating oils, greases, accessories, spark plugs. [fol. 1626] Q. Did you have to put out any money for any other materials or products or equipment?

A. Oh, yes. The station was not well equipped at all, and I did immediately purchase four to six hundred dollars worth of equipment or merchandise the following day through Mr. Jones.

Q. Mr. Bauer, what were the hours of your operation?

A. We opened at 7:00 in the morning and closed at 9:00 at night, and I ran a test on it by having it open from 7:00 in the morning until midnight for approximately a month and

it proved that it was not worth-while to hold it open later than 9:00 o'clock, except possibly on Saturday evening, Saturday night.

[fol. 1627] Q. Did Mr. Weir instruct you as to the hours you were to remain open?

A. I wouldn't say that he instructed me as to the hours I was to remain open. He told me what hours there had been before I took over the station and that was from 7:00 in the morning until 9:00 at night.

Q. Then was it your voluntary action to remain open the hours you did?

A. That's right.

Q. Did you employ any help?

A. I did.

Q. Were you reimbursed in any manner by Richfield for that?

A. Oh, no, sir.

Q. How much help did you employ?

A. I had three steady employees and two part-time employees.

Q. How many hours did you spend yourself in running this business?

A. My wife can answer that for you better than I can.

Q. Well, I think we will substitute you for your wife here, Mr. Bauer?

A. Oh, my hours were very uncertain. By that I mean I was there very definitely every morning by 8:00 o'clock. Some mornings I opened up the station, and I tried to get away from the station by 6:00 o'clock at night, but I was [fol. 1628] very unsuccessful at it, and in many, many instances, when I did get home from my business, I would be called back to the station to perform some service on a customer's car of a mechanical nature which the attendant was not able to do, and that would be seven days a week.

Q. Did you do anything to develop sales at your station?

A. Yes.

Q. What did that consist of?

A. It consisted of advertising in the local paper. It consisted of penny postal cards that were printed up by the San Marino paper and mailed to a mailing list, of which part of that mailing list was there when I took over, and

the other part of the mailing list was gotten up by my wife and myself by driving through the neighborhood and obtaining the names and addresses from the different mail boxes.

Q. You were trying to develop this business?

A. Yes, sir. Plus solicitation throughout the neighborhood, where it was permitted.

Q. Calling your attention to TBA products, could you tell the court just what products generally were approved by Richfield Oil Corporation?

A. I will try. I can tell you some of them.

Q. Just name some.

[fol. 1629] A. Mack's products, which consist of radiator polishes and radiator rust preventive. Goodyear products throughout. We were presented with a Goodyear catalog, and you could buy through your TBA dealer anything that carried a Goodyear name. And there were sealed beam headlights, and I have forgotten which manufacturer's name was approved. And Goodyear fan belts, Goodyear radiator hose, Goodyear curved hoses, Champion spark plugs, and I believe it was Everready bulbs for the automobiles.

Q. Was Mr. Jones the TBA distributor during your entire period at this station?

A. No. Mr. Jones sold out to Mr. Charles Cole, who is now the TBA dealer for the Pasadena territory.

Q. While Mr. Jones was TBA distributor, did you purchase all of your automotive accessories from him?

A. I purchased 99 per cent of my merchandise from Mr. Jones, yes.

Q. Did you continue to purchase approved accessories from Mr. Cole?

A. For a short period, yes.

Q. After that short period, what did you do with respect to products?

A. I was buying some of my merchandise from Mr. Cole. I was buying some of it from a chap named Ernie Woltman, and from the Anderson Automotive Supply Company, located on California Boulevard in Monterey Park.

[fol. 1630] Q. Were those sources also approved TBA distributors?

A. They handled approved TBA items, and they handled unapproved TBA items.

Q. You didn't understand my question. Were those other sources of supply approved by Richfield?

A. No, sir.

Q. The only one then being Mr. Cole?

A. That's right.

Q. I would like to have you explain to the court whether the items which you were purchasing were items that were directly competitive with some items that Richfield supplied through Mr. Cole.

A. Yes, they were competitive.

Q. Such as?

A. Well, in some instances it might be the same product. Take Macks——

Q. Designate the product. Was it tires, batteries, or fan belts, or something else?

A. If I can do that. Mr. Cole would handle, as an illustration, Macks 13, and I could buy that from Ernie Woltman at a cheaper figure than I could buy it from him.

Mr. Cole would handle Goodyear fan belts, and the Anderson Automotive Supply and Ernie Woltman both handled Gates fan belts, and I would buy from them.

[fol. 1631] There was a specific instance here where I wanted to buy a complete set of curved hoses that would fit about 90 per cent of the manufactured automobiles on the street today. By that I mean the different makes of automobiles. I tried to buy it from Charlie Cole, who was unable to supply me with that set-up, and I knew I could get it through Gates. Gates manufactured it, and I made several attempts to purchase it from them, and was unable to get it, and I later bought a complete set-up of these curved hoses put out by the Gates Rubber Company, and installed them in the service station on the proper hooks, and so forth, for display. And I also bought some Gates hose from some of the other jobbers instead of the Goodyear hose. I never did deviate on the batteries. I stayed with the Goodyear batteries all the way through, Goodyear and Resolute batteries.

Q. Mr. Bauer,——

A. Yes?

Q. Would you say that you were stocking a substantial amount of competitive products?

A. Yes.

May I ask, do you mean products that are in competition with the approved products?

Q. Yes.

A. Not to any great extent. The majority of them were approved items.

[fol. 1632] Q. Did you at any time have anyone from Richfield call to your attention the fact that you were purchasing these competitive products?

A. Yes, indeed.

Q. Would you relate to the court just what experiences you had in that regard?

A. Well, the merchandiser, Phil Zimmerman, who subsequently took over that territory from Ed Weir, very shortly after he had taken over the gas station there, came in and told me very definitely that they were not approved items, and he did not want those items in the station. And when I stop to think of it, there were several items, such as I handled ignition parts, Delco-Remy and Auto-Lite ignition parts, and they wanted me to handle a product called Guaranteed ignition parts, which is not what is called a genuine part. It is a replacement of it. And I handled the Gates curved hoses, and I handled some other items other than approved items, and I was told, as I mentioned before, that they were not approved, and that they should be disposed of and taken out of the station and replaced with Guaranteed products, which I refused to do.

Q. Did the merchandisers check your station frequently?

A. I would say yes, they did.

Q. And would comment on these competitive products you have described?

A. Practically every time they were there, yes.

[fol. 1633] Q. Would anyone from Richfield call your attention to the amount of purchases you were making from Mr. Cole?

A. Very definitely, yes.

Q. And in connection with those purchases would you

fix the relationship to place and time and the parties involved as to just what happened?

A. Well, Mr. Zimmerman—that was the merchandiser—told me one day there after I had stopped buying from Charlie Cole——

Q. When would this be, approximately?

A. Oh, let me think for a minute. March, February or March, possibly the 1st of April.

Q. Of the last year?

A. Of 1950, yes. —told me that if I didn't buy through the TBA dealer and if the Richfield Oil Corporation didn't enjoy the profit that they would ordinarily make from the items that I had bought from the TBA dealer, that the Richfield Oil Company could and would possibly raise my rent, in other words, from $25 to $50 a month, depending on what they figured was due them, so to speak, from the sales that should have been had, as they felt, from Charlie Cole.

Q. Was anything said about the lease that you were operating under?

A. Oh, yes. I was told several times before this particular instance that I mention that if I didn't abide by the [fol. 1634] so-called rules and regulations and purchase my articles from the TBA delegated, and co-operated, as they put it, with Richfield, that they would get somebody in that station that would co-operate.

Q. By the way, Mr. Bauer, was your attention called to the 24-hour clause in the lease at the time of your possession of the station was turned over to you?

A. Not to my recollection.

Q. So far as you know, this was the first mention that was specifically made of the fact that your lease might be cancelled?

A. That was the first mentioned that the lease could be cancelled, yes.

Q. Would you tell us whether or not you handled competitive oils?

A. Yes, I did.

Q. And did you experience any difficulty with respect to handling those products?

A. Yes, I did.

Q. Did you handle them openly, that is, did you display them? Did you put them where customers could see them?

A. No, definitely not.

Q. Did someone from Richfield call your attention to the fact that you were handling these oils?

A. Yes. Mr. Zimmerman called my attention to the fact that I was handling Quaker State and Pennzoil, and defi-
[fol. 1635] nitely was not allowed to do such things as that.

Q. When did this occur?

A. Well, that would have occurred in the early part of 1950, maybe March or April, maybe before that. I can't recall exactly.

Q. What did he tell you?

A. He told me I would have to dispose of it. First of all, he said, "You should not do that." And I said, "So what?" but I continued to do it. I continued to do it, and continued it a matter of a month or so. And apparently there was a drive on then because he came around and very definitely instructed me to get rid of that oil, and I very definitely told him that I had no intentions of getting rid of it or disposing of it. The following——

Q. Did you——

A. Pardon me.

Q. Did you continue handling it?

A. May I continue on with what I was going to say in answer to your question, sir?

Q. I am sorry.

A. The following day when I came in to work at 8:00 o'clock in the morning I found that Mr. Paul Shimus, an employee of mine, had to avoid any further trouble taken it upon himself to take the oil out of the station and put it in the back of his car, and later put part of it in the
[fol. 1636] back of mine, so that we would have to sneak it to our customers.

Q. Now, Mr. Bauer, did you continue handling outside oils after that occurrence?

A. After that the amount of oil was disposed of that I had on hand, I did not carry any other off-brand oils.

Q. Did you advertise in any manner the approved products by signs on the premises?

A. Yes. There were Goodyear signs and Goodyear tire

signs up there, and I remember one time when a Goodyear sign man came along and said, "You don't have a Goodyear battery sign out, so I am doing to put one up for you." I said, "All right." And he went out and put one up on one of the flood light poles.

Q. Did you have any signs advertising competitive products?

A. Yes, I had two signs advertising "Granatise". That is a product that you put on a car with a buffer. It is a polish, so to speak.

Q. Where were those signs?

A. They were tied to a fence. I had a three-foot high wire fence on the south boundary of the property and on the west boundary of the property, and the signs were about three-foot long and two and one-half foot high, a cloth sign with brass bromets in there, and I had them tied to the—one of them was tied to the south fence and one [fol. 1637] was tied to the west fence, so that as the people would pull into the pumps they would be facing these signs and could see them and very definitely understand that we did Granatise work there.

Q. Was anything done with respect to those signs?

A. Yes. I was at the bank one morning and when I came back I found Mr. Zimmerman there, folding up some blue pieces of cloth. And I said, "What was that?" He referred them to me and said, "Those are your Granatise signs. I have just taken them off the fence and you are not to put them back in place."

Q. Did you continue after this time to handle competitive TBA products?

A. Yes, sir.

Q. And did you hear any further from any representative of Richfield concerning your handling of them?

A. Constantly.

Q. Are you still operating that Richfield station, Mr. Bauer?

A. No, sir, I am not.

Q. Did you leave voluntarily?

A. No, sir, I did not.

Q. Will you tell us what happened?

A. Well, on the 7th of July of last year I received a call that my son was quite ill in Mason, Michigan with spinal

[fol. 1638] meningitis or bordering on it. And within two hours after I received that call my wife and I were on our way to Mason, Michigan. I left on the 7th and came back on the 28th, I think. I went into the station on the 28th or 29th, something like that. It was on a Monday, nevertheless, and I was checking out the Sunday's receipts when two gentlemen walked into the station and interrupted my work, saying, "I hear you want to sell your gas station." And I turned around and said to them, "Well, that's news to me. I don't know anything about it." And I asked them then who gave them that information and they said, "Well, a friend of ours. You just wouldn't know." And turned around and walked out. And having had the difficulty that I had had up to this point with Richfield, I figured that something might be wrong. So I tried to contact Mr. Zimmerman at the Pasadena office and I was unable to reach him there. I did, however, talk to Mr. Burgner, a branch manager of the Pasadena branch. I told him what had taken place and asked him what there was in the wind, if anything. He said, "Yes, there was something in the wind with them." So apparently Mr. Harold Blair who had stopped in and that they had his application, his credit application at the downtown office, going over it, and if his credit was approved, that he would take over my service station. Well, there was nothing I could say about that at the time.

[fol. 1639] Q. Did you thereafter receive any written notice of termination?

A. Well, that is—the answer is yes. There is a story with it, if you want it, but the answer is yes.

Q. Was there any difficulty concerning your getting out?

A. Yes, there was. I later talked to Phil Zimmerman and asked him what the score was. And he said, "Well, that is it. You are going to be checked out on such and such a date."

Q. Did he tell you why?

A. For the lack of co-operation. And I asked him what he meant by "cooperation" and he said, "Well, you just won't co-operate with us in buying your articles from the TBA dealer." He said, "I have told you before that you will either buy them from him or we will replace you, and

we are going to replace you." I said, "That is fine." And he told me that they would be, oh, about the 7th of August, I believe, to check me out, and I let him walk out that day and a couple of days later I called their office and asked them where my 24-hour notice was. And that afternoon Mr. Zimmerman came over with a different type of a form, not a 24-hour notice. I think it is an agreement of some sort wherein I relinquish the property back to the Richfield Oil Corporation, and asked me to sign it, and I refused to sign it. And that carried on for an hour or so and he finally left without it signed.

[fol. 1640] Q. Then did you receive the notice?

A. No.

Q. Did you eventually receive the notice?

A. I eventually received the notice, yes.

Q. Then did you have to turn the station over? Then did you have to vacate the premises?

A. Yes, after the 24-hour notice was received.

Q. Were you permitted to sell your inventory of merchandise to the new operator?

A. Yes.

Q. You had competitive items in that merchandise, did you?

A. Yes.

Q. Who supervised the sale to the new operator?

A. Mr. Zimmerman, Mr. Phil Zimmerman.

Q. Were you permitted to sell it without his supervision?

A. It didn't appear that I was able to or permitted to, because he was there on every move that we made. As an illustration, when we talked about—I am speaking of the new buyer now—when the new buyer and I talked about the Gates curved hoses, very immediately Mr. Zimmerman popped up and said, "That is not an approved item." And as we would go along with some other supplies, with the Seal Beam, which are standard equipment of Chrysler [fol. 1641] brakes, this came up in question and that was not an approved item according to Mr. Zimmerman. Like with the Delco-Remy and Auto-Lite Delco ignition parts, they were not approved items. And that went on along with some other polish that I had in there, that was not an approved item as far as Mr. Zimmerman was concerned,

and kept telling Mr. Blair there was not an approved item. Consequently I did not sell all of the merchandise I had in there.

Mr. Somerville: I think that will be all, Mr. Bauer.
The Court: All right, cross examine.

Cross-examination.

By Mr. DeMartini:

Q. At the time that you first talked to any Richfield representative—when did you first talk to any Richfield representative about this station prior to your installation, Mr. Bauer?

A. Well, I imagine it would be a week, thereabouts, prior to September 3rd.

Q. Of 1949?

A. Yes, sir.

Q. To whom did you talk?

A. To Mr. Ed Weir.

Q. Was there any conversation at that time with respect to your operations of the station and the maintenance thereof or anything of that nature?

A. Yes.

[fol. 1642] Q. Did they tell you that you were required to maintain it in accordance with Richfield's policies and practices?

A. Yes.

Q. Did they tell you you had to wear a uniform?

A. Yes.

Q. You s-ated, Mr. Bauer, that you did not know that the lease contained a 24-hour provision.

A. I did not make that statement.

Q. I am sorry. Will you repeat what statement you did make in that respect?

A. I was asked the question, as I recall it, that when Phil Zimmerman or Mr. Burgner told me they were going to check me out, was that the first I knew of being checked out, which would lead you to believe that I didn't know about the 24-hour notice. I read that after it was signed. I knew it was in there.

Q. Did you know then that the 24-hour lease was in there?

A. After I signed it I received my copy of it, yes, sir.

Q. Would you fix that as on or about September 3 of 1949?

A. No, it would not be then, because it was two or three weeks before I ever got my contract back from the Richfield Company.

The Court: At any rate, when they gave you notice, when [fol. 1643] they talked about replacing you and this man came, Blair you say was his name, and talked about selling the station, then it was that you asked where the 24-hour notice was?

A. That is right, sir.

The Court: In other words, up to that time they were just going along as though they were going to put you out and did not even give you notice?

The Witness: That is correct.

The Court: Then you got it?

The Witness: I got it.

The Court: With a vengeance.

The Witness: No, I just got it, sir.

The Court: All right.

The Witness: Yes, sir.

By Mr. DeMartini:

Q. I show you these leases again, Mr. Bauer, the original lease, if I may call it that, dated September 3, 1949. It called for what amount of rent?

A. $175 a month flat rental.

Q. Then there are two documents that are rather difficult to explain, one dated October 1, 1949 and the other dated October 6, 1949, which contain certain rental provisions. Do you know what those provisions were?

A. They call for $125 a month rental plus one cent per gallon of gasoline consumed over 12,500 gallons per month. [fol. 1644] Q. What was your gallonage at that time?

A. At what time, sir?

Q. At the time that this amendment was signed?

A. We had gone through—I had gone through my first month and come up, as I recall it, with 12,300 gallons of gasoline sales on the board.

Q. So in effect it amounted to a reduction in rent, did it not?

A. Yes.

Q. As of that month?

A. Yes.

Q. Were you called upon by merchandisers from time to time?

A. Yes, sir.

Q. You have already stated that these merchandisers complained with respect to the quantity of competitive merchandise that you had on hand from time to time?

A. Not particular about the quantity of competitive merchandise I had on hand, but simply because it was competitive merchandise and because——

The Court: Of its being there, not the quantity?

The Witness: That is right, and because I did not buy it from their TBA dealer.

By Mr. DeMartini:

Q. Did they complain about anything else such as cleanliness of the station at any time?

[fol. 1645] A. My reports show—I suppose you know that they read on a percentage basis there.

Q. Yes.

A. My reports will average, I would say, 80 to 90 per cent from a cleanliness standpoint.

The Court: All right.

By Mr. DeMartini:

Q. While Mr. Dixon is examining this I will ask you one further question. On or about or sometime in the month of August 1950, do you remember a service station transaction with a Mrs. Keller whereby you apparently lubricated her car and changed her oil, etc.?

A. I remember that, yes, sir.

Q. Was there a dispute with Mrs. Keller with respect to what services you had performed?

A. Between Mrs. Keller and myself?

Q. That is correct.

A. No, sir. The dispute was between Mrs. Keller with

the Richfield Oil Corporation. She never did come back to me and open her mouth or say a word to me. Pardon me.

Q. You would not state, then, that it was a fact that Mrs. Keller claimed that there were certain unauthorized services for which you charged her to the extent of $5.72?

Mr. Somerville: I will object to that.

The Court: That is all right. They have a right to ask him to contradict it. Go ahead.

[fol. 1646] The Witness: Would you mind asking that again?

The Court: Read the question.

By Mr. DeMartini:

Q. Have you any knowledge of the fact that Mrs. Keller claimed that you overcharged her with respect to unauthorized services to the extent of $5.72?

A. I have that knowledge, yes, sir.

Q. And do you know how that item was disposed of?

A. I have an idea. I am not certain of it. But I have an idea how it was disposed of.

The Court: Tell us about it.

The Witness: As I understand it, Richfield Corporation made an adjustment to her for that amount of money.

By Mr. DeMartini:

Q. And you in turn received the full amount that you charged her, did you not?

A. Yes, sir.

The Court: You say she never complained to you?

The Witness: No. She went direct to the Richfield Oil Corporation.

The Court: For the overcharge?

The Witness: That is right, your Honor. Yes, sir, that is right, your Honor. It was a credit charge to the account.

The Court: All right. Did the Richfield ever explain it to you?

The Witness: Yes. That was quite a subject. Mr. Zimmerman was in and we went over and had a cup of coffee [fol. 1647] and we talked about it. I think this was imme-

diately after I came back from Michigan. However, this had happened before I had gone to Michigan and I personally am the one that picked up her car. We had given her all kinds of service. She was a very nice southern lady with a southern drawl and she wanted some service, but that is beside the point. But I drove her back home and drove the car back to the station. While at her home, in front of her house, I personally had a regular lube sheet that we carry along, and asked Mrs. Keller whether she would like to have this done, whether it was time for that, and opened the door and pointed to the sticker on the door, recommending different things to her, and I was authorized by her to do everything, every single, solitary thing that I did on that car.

The Court: So the only question was, she did not complain that you did not do it, but she complained she did not want it done?

The Witness: That is right, sir. That is correct.

By Mr. DeMartini:

Q. And you said that Richfield settled that claim with her, to the best of your knowledge?

A. I believe they did.

The Clerk: These four sheets will be Defendant's Exhibit F for identification.

The Court: All right.

(The documents referred to were marked Defendant's Exhibit F for identification.)

[fol. 1648] By Mr. DeMartini:

Q. I show you Defendant's Exhibit F for identification, Mr. Bauer, consisting of a letter dated March 3, 1950 directed to you by Richfield Oil Corporation and accepted by you. That is your signature, is it not?

A. Yes, sir.

Q. Also, instrument entitled "Gasoline Inventory" signed by you and Mr. Zimmerman, which I believe was a part of the first instrument, is that correct?

A. No.

Q. Was it executed about the same time?

A. No.

Q. It has the same date.

A. Oh, the first instrument. Oh, this one here. I thought you were referring to that one.

Q. Yes.

A. Yes, sir.

Q. And a third instrument dated May 25, 1950 which purports to be signed by Richfield Oil Corporation and it also bears your signature, does it not?

A. That is correct.

Q. A fifth instrument dated August 14, 1950, signed by Richfield Oil Corporation, which also purports to bear your signature.

A. That is correct.

Q. Are you familiar with those instruments?

[fol.1649] A. I am, sir.

Q. What do they represent?

A. They represent a rebate, so to speak, on gasoline when the price war was in effect here in Los Angeles area, a rebate for gasoline purchases from the Richfield Oil Corporation and rebated to me by the Richfield Oil Corporation in the amount of, I believe it is one and a half cents per gallon on the regular and two cents a gallon on the ethyl. That is right, in that instance.

Q. Then if I may lead you slightly, the second instrument, entitled "Gasoline Inventory" represents what?

A. The gallonage that was in the tanks in the ground, 13,00- gallons of ethyl and 672 gallons of high-octane on which they also refunded to me one and a half and two cents, respectively.

Q. I thought I referred to five instruments.

A. I thought you did, too.

Q. I guess I did not. Anyway, the instrument dated May 25, 1950 represents what, Mr. Bauer?

A. It represents an additional rebate by the Richfield Oil Corporation to me as a dealer because the price of gasoline was again lowered at my service station.

Q. And then the letter of August 14, 1950 purports to be a cancellation of the allowance, is that correct?

A. That is correct.

[fol. 1650] Q. And is it correct to state that those allow-

ances were given to you to meet competitive prices in your area?

Mr. Somerville: If the court please, we will object to this.

The Court: Overruled. He is telling us about a price war and that is what it means. Go ahead.

A. That is right. Would you ask me the question again?

The Court: Read the question to him.

(Question read by the reporter)

A. Yes.

Mr. DeMartini: I will offer the instruments into evidence, your Honor.

Mr. Somerville: If the court please, we will object to these documents going into evidence on the ground they are irrelevant and immaterial, and the price fixing is not within the scope of this complaint.

The Court: I know, but they bear upon the type of relationship that exists between the parties. Overruled.

The Clerk: Defendant's Exhibit F into evidence.

The Court: All right.

(The document referred to was marked Defendant's Exhibit F and received in evidence.)

Mr. DeMartini: That is all, your Honor.

The Court: Any redirect?

Mr. Somerville: Yes, sir.

[fol. 1651] Redirect examination.

By Mr. Somerville:

Q. Mr. Bauer, did you have to lower your prices in consideration of your receiving that reduction in rental?

A. Very definitely.

Q. Or in price?

A. Are you referring to these last instruments that I just saw?

Q. That is right, yes, sir.

A. Yes, sir.

Q. Was the rebate on condition that you do as Richfield instructed you in that regard?

Mr. Paradise: Wait a minute. That calls for the conclusion of the witness. If he is talking about a conversation that resulted in this——

The Court: We know what it is all about. You may answer. He is going into it. He is given it so as to meet the price war. Go ahead, tell us what it was given you for.

A. It was given to me to repay me for the price war, due to the fact that I had to lower the price on gasoline.

The Court: When you lowered it, you lowered to the standard table at that time in that district?

The Witness: That is right. It also lowered my profits, but they replaced part of it.

By Mr. Somerville:

Q. Mr. Bauer, what was your gallonage during the latter [fol. 1652] part of the period you were in the station?

A. Roughly 16,000 gallons a month.

Q. Therefore the $125 minimum did not represent the price that you were paying or the rental you were paying?

A. No, sir.

[fol. 1653] Q. It would be, roughly, $175 rent?

A. It would be, roughly, $160.

Q. I believe you testified you didn't get a copy of your lease until about three weeks after you began operating your station?

A. It seems to me it took a period before I received my copy of the lease.

Q. So that you had no knowledge of the 24-hour clause in the lease?

Mr. DeMartini: I object to that.

The Court: I sustain the objection. That is all right with women, because that is a typical woman's alibi, that she didn't read it. But I don't take much stock in a businessman saying he didn't read it. If he didn't read it, he is just out of luck.

He has testified that he knew it from the very beginning, that he was told in the conversation that if at any time he didn't like it he could quit. He himself testified to that, that he could quit and they would find him a buyer. So that is the pattern. He was told that he could be put out on 24

hours notice, and whether he remembers it was 24 hours or not makes little difference.

By Mr. Somerville:

Q. Concerning the notice counsel referred to that was served on you, was there anything said concerning the other form of agreement that was attempted—that your signature [fol. 1654] was attempted—I withdraw that question.

The Court: You will have to unwind yourself. Whenever I dictate and get into that situation, I just stop and unwind myself.

Mr. Somerville: We get wound up at this time of day, your Honor.

The Court: If you will stop I will give you a recess.

Mr. Somerville: One more question, your Honor.

The Court: All right.

By Mr. Somerville:

Q. I believe you testified that an attempt was made to secure your signature on a form of termination agreement rather than serving a notice upon you?

A. That is correct.

Q. Was there anything said at that time concerning the reason for the signing of that agreement?

A. No. It was just handed to me, and I was expected to sign it, which I didn't do, and nothing was said about it.

Mr. Somerville: That will be all.

Mr. DeMartini: Your Honor, I have just one more question, if you don't mind.

The Court: All right.

[fol. 1655] Recross-examination.

By Mr. DeMartini:

Q. I am afraid you are going to think it specious, but Mr. Somerville stated that when your gallonage was 16,000 gallons a month, you were paying in excess of $125 per month, or $160 a month approximately, weren't you?

A. That is correct.

Q. That was still less than the $175 per month that you were paying before the amendment of the rental; isn't that correct?

A. That is correct.

Mr. DeMartini: That is all.

The Court: All right. You may step down.

(Witness excused.)

The Court: We will take a short recess.

(A short recess was taken.)

The Court: Call your next witness.

Mr. Somerville: The government calls Mr. Mills as its next witness.

Harlan G. Mills, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

The Clerk: Your name, please?

The Witness: Harlan G. Mills.

[fol. 1656] Direct examination.

By Mr. Somerville:

Q. What is your name, sir?

A. Harlan G. Mills.

Q. Mr. Mills, where do you reside?

A. 2604 Ross Avenue, Alhambra.

Q. Alhambra?

A. Yes.

[fol. 1657] Q. Mr. Mills, have you ever been in the business of operating a retail service station?

A. Yes, sir.

Q. When is the first time you operated a retail service station?

A. As an employee in 1921.

Q. The first time you operated not as an employee, but operated the service station?

A. In the latter part of the 1920's as an officer in the Duncan-Mills Corporation.

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Q. Where was the location of that service station?

A. 4 East Huntington Drive, Alhambra.

Q. Whose petroleum products did you handle at that time?

Mr. Paradise: If the court please, I assume this is preliminary,——

Mr. Somerville: Yes, it is.

Mr. Paradise: —but the defendant objects to anything prior to the incorporation of this defendant, which occurred on March 12, 1937, which was the commencement of its doing business as indicated by a stipulation between counsel.

Mr. Sommerville: This is entirely preliminary. We don't contend that any arrangement prior to that period is involved here.

By Mr. Somerville:

Q. Did you hear the question?

[fol. 1658] A. The split pump account carried various products like, for instance, we had Hercules, Eureka, Wilshire, Union, Standard, and then later one pump of Richfield.

Q. How long did you continue to operate that split pump?

Mr. Paradise: I submit this is beyond the preliminary stage. This is going into practices, and I move that the answer of the witness be stricken.

The Court: I am not going to allow you to go too far into that. We are dealing with some current practices, and going back into history isn't necessary for the determination of the issues in this case.

Mr. Somerville: Yes, your Honor. I didn't intend to go into it.

The Court: There is a lot of ancient history we do not need to go into. I participated in some very unpleasant history related to the predecessor of this company, as both sides know. So let's not do that.

Mr. DeMartini: I was a witness in that case, your Honor.

The Court: Let's forget that. To me it was a tragic thing.

Mr. Somerville: Yes, sir, it was.

By Mr. Somerville:

Q. I believe you testified that the location of the split pump station was at 4 Huntington Drive in Alhambra?
[fol. 1659] A. 4 East Huntington Drive.

Q. At some time did that station become a Richfield station,—handle only Richfield gasoline?

Mr. Paradise: Objected to as immaterial. I think counsel should now confine himself to things which occurred subsequent to the incorporation of this defendant.

Mr. Somerville: This matter distinctly relates to a service station within the period at the same address and these questions are just preliminary and have a direct bearing on the issues here.

The Court: Let's get down to more recent times.

By Mr. Somerville:

Q. Directing your attention to the service station at that location, would you explain to the court the first time that you dispensed the Richfield brands of gasoline?

Mr. Paradise: Objected to for lack of foundation, unless counsel merely directs his question and limits his question to a time subsequent to the incorporation.

The Court: Evidently he has gotten hold of an old-timer with the company. So let's get it over with and get down to more recent times. Give us the date of the lease. Get down to more recent times.

The Witness: The station handled 100 per cent Richfield products, I would say, somewhere in the late 20's.

By Mr. Somerville:

Q. Did you subsequently have a sub-lease from Rich-
[fol. 1660] field?

A. No. If we are talking about the original 100 per cent deal, no. We had a marketing agreement.

Q. Let's develop this. I want to get down to the time here when you operated a station on a lease by Richfield to you. But, first of all, with respect to the property here, who owned the property back at the time you first handled Richfield gasoline?

Mr. DeMartini: I am going to object, your Honor. Counsel can start with the date of the incorporation of this corporation.

The Court: In the case of this witness, who has been connected with the company so long, why don't you start with a date and ask him specifically as to that date? They will not object if you lead him. You know the date.

[fol. 1661] Mr. Somerville: Counsel, will you stipulate that Mr. Harlan Mills—

(Counsel conferring briefly.)

Mr. Somerville: Counsel, will you stipulate that Mr. Harlan B. Mills had a form 542 lease, which is the same form of lease as Government's Exhibit No. 1, dated August 16, 1937 and containing a provision for a rental of $200 per month plus one cent per gallon after 20,000 gallons?

Mr. DeMartini: It is dated August 16, 1937. We so stipulate.

The Court: All right. Now, we have a date to start from.

Mr. Somerville: And will it be further stipulated that a subsequent lease was entered into between Richfield and Harlan B. Mills dated April 15, 1943, bearing print date April 1942, Form 542?

Mr. DeMartini: I will stipulate that it is on the form attached to our stipulation bearing the same print date.

Mr. Dixon: It is also, I believe, Government's 1-C, is it not?

Mr. Paradise: No.

Mr. Dixon: Date 8-42 is Government's 1-C.

Mr. DeMartini: What was the date of that second one?

Mr. Somerville: The second one is 4-42.

Mr. DeMartini: Oh, I am sorry.

By Mr. Somerville:

Q. Mr. Mills, calling your attention to August 16, 1937, [fol. 1662] is that approximately the time that you entered into the sale for Richfield gasoline at this location, when it was leased from Richfield?

A. First, in 1936, I believe.

Q. 1936?

A. Not as a lease, no.

Q. Calling your attention to this particular period, who owned this property originally or who held the——

A. Richfield held the master lease.

Q. And had you at any time held the master lease on those premises?

A. No, sir.

Mr. Paradise: Counsel's question is obviously directed to a time prior to 1937.

The Court: I think he is taking a lot of time arguing about these things. Let us get over these preliminary questions and get down to more recent dates. Go ahead, tell them.

The Witness: In 1936 I held the master lease on the station.

By Mr. Somerville:

Q. Were you instrumental in acquiring the lease from the property owners for Richfield?

A. I was.

Mr. DeMartini: I will object to that as being immaterial, your Honor.

The Court: Overruled. Let us get down to date.

[fol. 1663] By Mr. Somerville:

Q. Calling your attention to that lease, Mr. Mills, does that represent the entire agreement or agreements that were entered into between you and Richfield at that particular time?

A. Yes.

Q. I am referring now to the lease dated August 16, 1937.

A. Yes, that does.

Q. Are you familiar with the term provided for in that lease?

A. I am.

Q. And what was that term?

A. Well, it calls for a base rental and——

Q. No. I am talking about the term the lease ran or the provisions for termination.

A. Well, is this the six months or the 24-hour one? Point that out. Six months termination.

Mr. Paradise: If it will save time, Mr. Somerville, we will

stipulate that that could be only on six months notice and the form so provides.

The Court: All right.

Mr. Paradise: No. I mean it could be terminated on 30 days notice every six months.

By Mr. Somerville:

Q. Subsequently did you enter into this revised form dated April 15, 1943 containing a 24-hour termination pro-
[fol. 1664] vision?

A. That is right.

Q. Now, with respect to this service station at the time you commenced operating in 1937 under this lease, did you invest any money in the business?

A. I did.

Q. For operating that service station?

A. I did.

Q. And what was your investment? What did your investment consist of?

A. It consisted of merchandise, salable merchandise and a small amount of equipment.

Q. And what would you estimate your investment to be?

A. Too long ago. I wouldn't estimate it.

Q. At the time you took over the station did you have any established accounts? I am talking now about customers purchasing petroleum products and automotive accessories?

A. Yes, sir.

Q. Those were accounts that you sold prior to the time that you commenced operating under this lease?

A. Yes, sir.

Q. And at this particular time was anything said to you concerning the handling of automotive accessories at this service station?

Mr. DeMartini: Said by whom?

By Mr. Somerville:

Q. Tell us whether there were any conversations with any
[fol. 1665] official or representative of Richfield Oil Corporation regarding the handling or selling or purchasing of automotive accessories at this station?

A. The 1930 document—the 1937 document?

Q. Yes, sir.

A. Yes, there was provision made for that.

Q. A provision made for it, you mean an oral provision?

A. Tissue paper riders on my contract.

Q. Do you have those contracts available?

A. About three or four years ago we destroyed all of our old documents.

Q. When you referred to tissue paper riders are you referring to riders on this form 542 lease dated in 1937?

A. Yes.

Q. And what was the provision contained in this rider?

A. That allowed me to sell competitive oils and accessories, and named the per cent that was allowable.

Q. Were there any conversations held with any representative of the Richfield Oil Corporation concerning this rider or any further explanation of it?

A. Yes, in the Richfield Building.

Q. And who were those discussions held with or conversations?

A. Mr. Maxwell, one of the Richfield attorneys. I can't recall his name.

Q. And what further was said or what was said at that [fol. 1666] time?

Mr. DeMartini: Will you fix the date of this, Mr. Mills? About when did this happen?

The Witness: The signing of the—before my sublease was signed with Richfield. I call this my sublease, this 1937 document.

The Court: All right.

By Mr. Somerville:

Q. Thereafter did you continue or did you sell some items competitive to those approved by Richfield?

A. Yes, sir.

Q. Under the terms of this rider?

A. Yes, sir.

Q. And within the limitations of the terms?

A. Yes, sir.

Q. Did this rider continue in effect throughout your tenure of the station?

A. No. Until the next lease agreement was presented.

Q. Until that lease agreement in 1943. And at that time was there any discussion held concerning the elimination of this rider?

A. Yes. I was told that——

Q. Would you tell us who the discussions were with, and I understand at the time of the new lease?

A. The discussion was with the merchandiser from the [fol. 1667] Pasadena branch who called on me.

Q. And what was said? What was the nature of the conversation?

A. Well, that the company had to have a uniform agreement among their dealers, and that if I would sign this I could go ahead and disregard the—I mean I could continue with the terms or the way I had been operating, because I said that was the only way in which I would sign it.

Q. How many hours did your station remain open, Mr. Mills?

A. Part of the time, 24 hours.

Q. How many employees did you have?

The Court: Where is your station located?

The Witness: Atlantic and Huntington Drive.

Mr. Somerville: I beg pardon.

The Court: Atlantic and Huntington Drive. I asked him where his station was out here.

By Mr. Somerville:

Q. How many men were employed by you upon the average through the period?

A. Well, from eight men during the 24-hour pre-war schedule until three during wartime, you know. The wartime schedule cut us all down.

Q. And who pays those men?

A. I did.

Q. Calling your attention to the electrical lighting system [fol. 1668] was there any electrical lighting system in that station?

A. Yes.

Q. Who paid for that?

A. I did. What do you mean, now? Pardon me.

Q. Will you describe just what it was?

A. It was a regular Edison current at the time I went in there.

Q. How much did you expend in the installation of that electrical system at the station?

Mr. DeMartini: May we fix the date for this, your Honor?

The Court: 1943, isn't it?

Mr. Somerville: 1943, I understood.

The Court: Aren't you talking about '43?

The Witness: Yes, talking about the period following '37. I don't get the last question clearly.

The Court: When did you install this electric system?

The Witness: I supplemented the Edison with a system of my own sometime in the thirties. I would not be able to establish the date.

The Court: Well, all right.

By Mr. Somerville:

Q. How much money did you spend in that, sir?

A. $1,820 for the machine and $350 for fluorescent lighting.

[fol. 1669] Q. Was there any particular advantage to you in selling competitive products?

A. Yes.

Q. And what was that advantage?

A. Additional margin of profit.

Q. Did you continue after this period of 1943 to handle these outside products?

A. I did.

Q. After this rider was eliminated?

A. I did.

Q. Did you continue to handle these competitive products in any substantial amounts?

A. Yes.

Q. At any time did you experience any difficulty from any representative of Richfield concerning your handling of this merchandise?

A. Conversation only.

Q. And what conversations did you have and with whom and when?

A. The merchandiser, from time to time.

Q. What was your answer?

A. From time to time.

Q. From time to time. What was the nature of those conversations?

Mr. Paradise: May we have a further foundation, if the [fol. 1670] court please, of names and dates?

The Court: Yes, let us have it. This man's activities cover so long a period of time.

By Mr. Somerville:

Q. Who were those conversations with?

A. Pardon?

Q. Who were those conversations with, sir?

A. Merchandisers.

Q. And when, specifically, as nearly as you can remember, did any conversation occur with the merchandisers concerning your handling of competitive products?

A. I would not be able to state specifically.

Q. Did it happen frequently? Did conversations happen frequently?

A. Shall we say once a month.

Q. Were they of the same tenor? Were they all concerned with the same subject matter?

A. Yes.

Q. What were those conversations on these frequent occasions?

A. Once a month——

Mr. Paradise: I do not want to be specious about this, your Honor, but here is a man who has been in this station for a great number of years. We would like to know the names of the men he talked to.

[fol. 1671] The Court: Yes, you ought to, because of that, you know, more particularly, because he has probably talked with dozens of them over that period.

By Mr. Somerville:

Q. Do you remember the names of any merchandisers over that period?

A. Norman Harvey was the last merchandiser who was there at the Pasadena branch, who called on me. The

others, I could look at the list and probably refresh my memory on them.

The Court: Let us start backwards with that man. Go ahead and tell us about Harvey.

By Mr. Somerville:

Q. Yes, tell us what Mr. Harvey told you, if anything.
A. Well, that was the time I sold the business that I had the conversations with Harvey.
Q. And what did Mr. Harvey say?

The Court: Tell us the year, now.
Mr. DeMartini: When did you sell it? Pardon me.
The Court: Tell us the time.

By Mr. Somerville:

Q. Can you fix the date on that? When did that occur? Fix the approximate date, month and year, as nearly as you can.
A. About four or five years ago. Let's see.

The Court: Well, all right.

By Mr. Somerville:

Q. Are you still operating a Richfield service station at [fol. 1672] that address?
A. No.
Q. When did you leave that station? When did you terminate your lease?
A. Well——

Mr. Somerville: Will counsel stipulate that the lease was terminated November 1944?
Mr. Paradise: Yes, so stipulated.
The Court: All right. Does that refresh your recollection?
The Witness: November 1944?
The Court: Yes.

By Mr. Somerville:

Q. November 1944, does that help to refresh your memory?

A. Yes.

Q. With respect to the conversation with Mr. Harvey?

A. Yes.

Q. And what was that conversation, now, relating to the handling of competitive merchandise?

A. Well, he said that the company was not satisfied with my operation and that if I was not willing to co-operate that they would have to find somebody to take the station.

Q. And was that the reason for your leaving the station?

A. Yes.

The Court: Did he explain what he meant that you were not co-operating?

[fol. 1673] A. Well, possibly I assumed what the reason was.

The Court: What was he talking about? Had you had difficulties before about handling competitive products?

The Witness: I had difficulties with the merchandiser, your Honor, but the higher authority in Los Angeles of Richfield Oil Corporation would always straighten them out.

The Court: But this time you evidently could not, is that it?

The Witness: That is right.

The Court: All right.

By Mr. Somerville:

Q. And as a result you left the station?

A. They found a buyer and I sold it.

Q. And at that time did you still have an investment in the lighting equipment?

A. I did.

Q. And did you have an investment in stocks?

A. I did.

Q. And did you have any customer accounts at that time?

A. Oh, yes.

Q. That you had built up during the period of 25 years or so?

A. Yes, I did.

Q. Calling your attention to 1943, when you executed a new form of lease requiring or specifying termination by [fol. 1674] 24-hour notice, can you describe to the court the

circumstances surrounding the negotiation of that new lease? Was there any discussion concerning that?

A. Yes. I refused to sign it.

Q. You refused to sign it. What was your reason for refusing to sign?

Mr. Paradise: Objected to as immaterial.

The Court: What did you tell him? Did you give any reason?

The Witness: Yes.

The Court: What did you tell him?

The Witness: It had no provision for my being allowed to operate before, as an independent dealer.

By Mr. Somerville:

Q. You subsequently signed, however, didn't you?

A. I did.

Q. Did you have any alternative?

The Court: Well, you are arguing, you are arguing.

Mr. Somerville: I am sorry. I concede that.

The Court: That is argument. He has told his stor.y You signed and you went on?

The Witness: That is right.

The Court: And then when you sold out, what money did you get out, just for what?

The Witness: For my merchandise and my equipment [fol. 1675] depreciated.

The Court: Your equipment. And the fixtures, of course, like the lighting, etc., you could not pull those out?

The Witness: That is right.

The Court: Because they were fixtures. Did you have any non-competitive products on your shelves when you made the sale?

The Witness: Oh, yes.

The Court: What did you do with those?

The Witness: Sold them to the incoming buyer.

The Court: He bought them from you?

The Witness: Correct.

The Court: That is all right, he is a nice man. Did he buy some of your equipment, too?

The Witness: Oh, yes.

The Court: If you keep repeating this story, I could almost repeat the story myself.

[fol. 1676] Mr. Somerville: The government asks that the following documents be marked Government's next in order, consisting of a document bearing the caption, "Richfield Oil Corporation, Marketing Department—Southern Division. Subject: Form 542, Revised 3-41 (24 Hour Cancellation Privilege)," and addressed, "To All Branch Managers, Salaried Agents, Commission Agents, Territory Salesmen, and Merchandisers, Southern Division," and signed by "W. G. King, Jr."

The Court: All right.

Mr. Paradise: No objection.

Mr. Somerville: And, further, a document consisting of a letter from B. J. Shafer to Mr. F. F. Little, dated July 31, 1941.

Also, a letter——

The Court: What has that to do with the testimony of this witness?

Mr. Somerville: It concerns the 24-hour clause.

The Court: The main idea is that we want to finish with the examination of this witness. That you can bring in later. Let's finish with the witness first.

Mr. Dixon: Yes, your Honor. We will have these marked for identification, and then offer them into evidence at a later date.

The Court: Yes, just mark them for identification now.

[fol. 1677] The Clerk: They will be Government's Exhibits No. 10, for identification, with the subdivisions.

(The documents referred to were marked Government's Exhibits 10, 10-A, 10-B, 10-C, 10-D and 10-E, for identification.)

Mr. Somerville: Your witness.

Cross-examination.

By Mr. DeMartini:

Q. Did you see these before, Mr. Mills? Lease dated August 16, 1937, providing for a rent of $200 a month, plus one cent over 20,000 gallons, making it an even cent; is that correct?

A. Yes, that is right.

Q. And an amendment dated May 5, 1942, providing for $150 per month, with one cent over 20,000 gallons——

A. Yes.

Q. —which made it somewhat less than a cent, if you went over 15,000; is that correct?

A. That's right.

Q. And an amendment dated December 4, 1942 indicates the rent was $100 a month, wasn't it?

A. That's right.

Q. And a lease dated April 15, 1943 specifies a rent of $50 a month plus one-half cent over 10,000 gallons; is that correct?

A. In 1943?

[fol. 1678] Q. That is your signature (indicating)?

A. Yes.

Q. That is a half a cent a gallon, isn't it?

A. Yes.

Q. And an amendment dated April 1, 1944, specifies a rent of $100 per month, with one cent over 10,000 gallons?

A. Yes.

Q. That is one cent a gallon, isn't it, with a minimum of $100?

A. Yes.

Q. What was the reason for those various rental amendments?

A. The war years brought different conditions.

Q. And your rent was reduced because of unfavorable conditions; is that correct?

A. That's right.

Q. Unfavorable business conditions?

A. That's right.

The Court: Limited supplies, too, to sell?

The Witness: Yes?

The Court: Isn't that true?

The Witness: And the cost to do business.

By Mr. DeMartini:

Q. You are a very good service station operator, aren't you, Mr. Mills?

A. I couldn't answer that.

[fol. 1679] Q. You are one of the best that Richfield ever had; isn't that true?

A. I wouldn't answer that.

The Court: Are you still in the business for some other concern?

The Witness: I am.

The Court: For another concern. I see.

Mr. DeMartini: No further questions.

Redirect examination.

By Mr. Somerville:

Q. Just one further question. Do you happen to know of your own knowledgw what the underlying rental was that Richfield paid to the property owner on that property at the beginning?

A. I hadn't seen the lease, but I believe it was based on my original sublease, identical terms.

Q. Your rental and the rental that Richfield paid was the same?

A. Yes.

Mr. Somerville: That is all. Thank you.

The Court: You may step down.

(Witness excused.)

Mr. Somerville: The government offers into evidence Government's Exhibit No. 10, for identification.

[fols. 1680-1683] Mr. Paradise: May we withhold that offer until we have had a chance to examine it? I have seen only the first instrument.

The Court: Yes, you may look it over. There are a lot of instruments there, and you may want to object to them.

Mr. Dixon: Now, as I understand it, your Honor, we are not going to be in court on Monday.

The Court: That is right.

Mr. Dixon: I mean in this case.

The Court: I will be in court, but you won't have to be. You ought to see the pile of files that Mr. Childress has put on my desk to look over between now and Monday.

Mr. Dixon: This is off the record, your Honor.

(Discussion between court and counsel off the record.)

The Court: Now, let's get back to our case here. This case will be continued until Tuesday morning at 10:00 o'clock, and we will adjourn until Monday.

(Whereupon at 5:25 o'clock p. m., Friday, May 11, 1951, an adjournment was taken until 10:00 o'clock a. m., Tuesday, May 15, 1951.)

[fol.1684] The Court: Cause on trial.

Mr. Somerville: Your Honor please, the government offers in evidence Exhibit No. 10 through 10-E.

Mr. DeMartini: No objection.

The Court: They may be received.

The Clerk: Government's 10, 10-A through 10-E in evidence.

(The documents, heretofore marked Plaintiff's Exhibits 10, and 10-A to 10-E, inclusive, were received in evidence.)

Mr. Somerville: The government calls as its first witness this morning Harry Ellis.

Harry R. Ellis, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination:

Mr. Somerville: Your Honor please, we are calling Mr. Ellis slightly out of order. He is a supplier witness, but he has some commitments out of town, and we are calling him at this time.

The Court: All right.

[fol. 1685] The Clerk: What is your name, please?

The Witness: Harry R. Ellis.

The Clerk: E-l-l-i-s?

The Witness: Right.

By Mr. Somerville:

Q. Mr. Ellis, where do you reside?

A. At 1776 Sharon Place, in San Marino.

Q. What is your occupation or employment?

A. Salesman.
Q. Salesman for whom?
A. The Pennzoil Company.
Q. The Pennzoil Company?
A. Right.
Q. What products does the Pennzoil Company deal in?
A. Motor oils and lubricants.

Mr. Paradise: Will you speak a little louder, please, Mr. Ellis?

The Witness: Motor oil and lubricants.

By Mr. Somerville:

Q. What class of trade do you sell?
A. The retail trade, that is, the retail dealer.
Q. Including service stations?
A. Including service stations, garages, and motor car dealers.
Q. Do you make calls on Richfield service stations, that [fol. 1686] is, service stations handling Richfield brands of petroleum products?
A. Many times.
Q. What is your sales territory, Mr. Ellis?
A. The geographical boundaries?
Q. Yes.
A. At the present time—it has been changed over the past years, but at present the geographical boundary is from the Los Angeles City Limits, approximately Fremont Street in Alhambra, or just this side of that, through to Ontario, and from Valley Boulevard to and including Azusa, and such towns through there.
Q. Are you familiar, Mr. Ellis, with the brands of lubricating oils and greases dispensed at Richfield service stations, that is the Richfield brands of lubricants and greases?
A. Well, more or less, yes.
Q. Are the products that you sell comparable or competitive with those brands of lubricating oils and greases?
A. That is correct.
Q. Can you tell us where the Pennzoil Company receives its shipments of lubricating oils and greases?
A. Mostly shipped out of Oil City.

Q. Out of Oil City?

A. Out of Oil City, Pennsylvania.

[fol. 1687] Q. Yes, sir. And distributed from Los Angeles to the trade?

A. And various other branches, yes.

Q. Calling your attention, Mr. Ellis, to a service station operated by Harlan G. Mills at 4 East Huntington drive, Alhambra, California, are you familiar with that particular outlet?

A. I am.

[fol. 1688] Mr. Somerville: May the record show that this is the same service station and the same dealer concerning whom testimony was taken last Friday?

Q. With respect to this particular outlet, Mr. Ellis, have you ever made any attempts to sell your products to this station?

A. Yes, I have.

Q. During what period or periods?

A. For a good many years—principally—do you want me to tell you just how it led up to 1944 or 1945? Is that what you mean?

Q. Yes.

A. Well, the background of it was, that station was originally Duncan & Mills and then that partnership was severed and Mr. Mills took over, Harlan Mills, in other words, and the station, to the best of my knowledge, was a lease and sublease station or something like that.

Mr. Paradise: I move that that answer be stricken, if the court please, as not responsive to the question. No foundation was laid.

The Court: I think that last statement should be stricken. The first part of the answer will remain.

Mr. Somerville: We are are not interested in the arrangements, Mr. Ellis.

The Witness: Oh, I see.

[fol. 1689] Mr. Paradise: May it be stipulated, Mr. Somerville, that the Harlan Mills station was an L-O station?

Mr. Somerville: I think that was the testimony of Mr. Mills.

The Court: All right.

By Mr. Somerville:

Q. With respect to this outlet did you attempt to sell any of your products during 1944 or 1945?

A. I did.

Q. What was the result?

A. Well, I was able to sell Pennzoil to this outlet under restrictions.

Q. Would you tell us, Mr. Ellis, what restrictions, that is, relating it to any particular conversations? Did you have any conversations with Mr. Mills concerning that?

A. Mr. Mills always informed me that he had to keep the products hid under the counter.

Q. How often did you call——

Mr. DeMartini: I will object to this as no proper foundation laid, your Honor, as to time and place of the conversation.

The Court: We ought to know what we are talking about, counsel, so we know what it means.

Mr. Somerville: I am developing that, counsel.

Q. Let us relate it to specific times. How often did you [fol. 1690] call on Mr. Mills?

A. Well, I called on Harlan Mills every two weeks.

Q. When did any conversations occur and, if several conversations occurred, let us know the approximate dates of the conversations concerning the handling of this oil.

A. The approximate dates?

Q. Yes. When did you have any conversations with Mr. Mills?

A. Well, I had conversations with Mr. Mills every two weeks during that period of two years, we will say.

Q. Were the conversations of the same general tenor?

A. Well, my conversation would probably run along like—would run along like this: Naturally, I wanted to sell more of my merchandise, as much of my merchandise as I could. In my conversation with Mr. Mills, if his sales were not too good, why, I would ask him why, and he says: "Well, you can't sell much of a product that you have to hide." That is exactly what Harlan has told me many times.

Q. Did you observe whether Mr. Mills actually did hide it?

A. I did, because it seemed my duty. Lots of times I

was asked by Mr. Mills to go into the station and open up the hiding place and count the merchandise in there so I could inform him just how much stock he had.

Q. Did he explain to you why he hid this oil?

[fol. 1691] A. He did.

Q. What was the reason?

A. His reason was he didn't want the Richfield supervisor to find the oil in his place of business.

The Court: Where was this hiding place you were speaking of?

The Witness: Down under the counter, Judge. He had a display counter in front which was used for display purposes. He had his Richfield products on it, and down under the counter were doors that opened like this, and they were in back under there.

The Court: Like doors in a kitchen?

The Witness: In a cabinet.

The Court: In a cabinet?

The Witness: On that order, yes.

By Mr. Somerville:

Q. Calling your attention now, Mr. Ellis, to a service station at 625 West Las Tunas operated by David W. Colmery in Arcadia, California, are you familiar with this station?

A. Yes, I am.

Q. Have you ever called on Mr. Colmery?

A. Yes, I have.

Q. Have you made any sales of your products to him?

Mr. Paradise: I object to any questions insofar as the Colmery station is concern, if your Honor please, for lack [fol. 1692] of proper foundation. We had established, I thought, last Friday that when stations were involved which had not previously been testified to by dealers, that indication would be made as to the nature of the station, whether it was an L-O station or not.

The Court: Yes.

Mr. Somerville: May we ask, counsel, if you stipulate that this station was a station operated under one of the three forms of agreements involved in this case?

Mr. Paradise: Yes, one of the three forms. The particular form, however, is the one that we want designated.

The Court: Because he is putting this question out of order, I will allow him to bring in this testimony at the present time, with the understanding that he supply us later as to the form of agreement. As I said last week, I think you are entitled to put in your evidence upon your theory that the three types of stations do not involve in essence any difference insofar as the character of the relationship. At the same time, because counsel have shown that they do base an argument upon the alleged distinction that they maintain exists between the stations, I think as a matter of courtesy and also for the purpose of laying foundation for an argument and a possible ruling upon each of them separately as the testimony is offered, we should be informed about the character of the relationship existing at [fol. 1693] the station as to which that is directed.

That is a long speech to make over a small matter, but I thought we should re-orient ourselves this week so we get started that way.

Yes, sir.

Mr. Paradise: I was going to suggest this, young Honor, that the objection goes to a point more than merely clarity, for this reason: That insofar as testimony of competitors is concerned which relates to either the 3-C or the 337 contracts, as distinguished from the L-O contracts—and that is the reason why I wanted the foundation laid—there is an entirely different objection which has not been presented to the court as yet. That concerns the materiality and relevance of such testimony and the application of the hearsay rule which we would like to present separately. That has not been developed until a foundation has been laid showing that the competitor is testifying to a station other than an L-O station.

The Court: I am not limiting your objections. I merely stated why I believed that a policy should be followed, and if this witness' testimony is not tied up later on to show the exact nature of the relationship and the station about which he is speaking, then the motion to strike may be presented at the proper time.

[fol. 1694] Mr. Somerville: If the court please, in the an-

swer to the defendant's interrogatories, we have submitted the name of supplier witnesses, together with data concerning the attempts that were made to sell specific stations.

The Court: All right.

Mr. Somerville: Counsel have been informed of the particular attempts to which Mr. Ellis will testify.

The Court: That is true, but that does not take care of the main situation that there is no testimony at the present time as to the character of the relationship, about which this testimony is to be given. That is what we are talking about.

Mr. Somerville: I realize that.

The Court: He was not claiming surprise, or anything of the kind.

Mr. Somerville: I realize that. I thought counsel might stipulate here as to the form of the agreement in the particular attempt that is described. Could you stipulate as to the form of agreement to which David W. Colmery is a party?

Mr. Paradise: I don't have that file in court, Mr. Somerville. We were not asked to bring that file into court this morning.

Mr. Somerville: You have none of the supporting documents on the particular attempts?

[fol. 1695] Mr. Paradise: No, just the particular ones that you indicated yesterday, and Mr. Ellis' name and Mr. Colmery's name does not appear in the answer to the interrogatories.

Mr. Somerville: I would like to call your attention, Mr. Paradise, to the fact that we had a supplemental list of attempts concerning Mr. Ellis or supplemental answers to interrogatories.

Mr. Paradise: I think that is true, but we don't have the Colmery file here.

Mr. Somerville: In view of that situation, we will present the supporting documents at a later time.

The Court: All right. Let's go on, gentlemen.

By Mr. Somerville:

Q. Mr. Ellis, you testified that you are familiar with the station operated by David W. Colmery?

A. That's right.

Q. At any time have you attempted to make sales to this outlet?

A. Yes.

Q. When?

A. Well, at numerous times, particularly in the last year.

Q. Have you been successful in selling him?

A. No, I haven't.

Q. Have you had any conversations with Mr. Colmery [fol. 1696] regarding the reasons for it?

A. Yes, I have.

Q. About when did those conversations occur?

A. Well, on my attempt to sell him oil, he would give those reasons why he couldn't buy.

Q. Can you fix some approximate time, sir?

A. Well, that would be pretty hard to do when you call on your territory every two weeks. It might have been any time during the time 52 weeks of the year. Every two weeks is when I would call on the man.

Q. Would his reasons be repeated from time to time?

A. Oh, yes, sir. He always repeats the reasons why he didn't buy. They all do.

Q. And what were the reasons that he gave you?

Mr. Paradise: That I object to as hearsay, if the court please.

Mr. Somerville: If the court please, this goes to the matter of the effect upon the market involved here. It is offered for that sole purpose.

Mr. Paradise: May I be heard on that?

The Court: Yes.

Mr. Paradise: I believe that any testimony of any competitor of any conversation with a dealer in a Richfield station which is not an L-O station is objectionable, first, on the ground of hearsay, and, second, on the ground of materiality.

I think that for the purpose of this discussion, if the [fol. 1697] court please, and this may form a pattern for a great many witnesses that will come before this court in the course of this trial, I would like to present this fairly fully.

And may it be stipulated that the Colmery station was not a Form 542 sublease?

Mr. Somerville: I think that is a 3-C station.

The Court: I think while this argument is going on, you might as well step down and sit in a more comfortable chair, Mr. Ellis. We will call you back.

The Witness: O. K.

Mr. Paradise: Counsel has mentioned that the Colmery station is a 3-C type of station. Now, the purpose—may I say parenthetically that I appreciate that this same problem was discussed and passed upon by your Honor in the Standard Oil Company case, but I think there is a most vital difference between this case and the Standard Oil Company case, where the same question was raised.

The court will recall that in that case the written contract between the Standard Oil Company and a dealer was before the court, before the competitor was permitted to testify as to conversations between the competitor and the service station dealer. That written contract had stated expressly on its face that the dealer agreed to purchase his entire requirements of petroleum products. The objection was made by the Standard Oil Company in that [fol. 1698] case, as I recall it, that testimony of that sort was hearsay and not binding upon the Standard Oil Company, no member of the Standard Oil Company being present, and various other reasons for the hearsay rule, and no opportunity to cross-examine.

The testimony was ultimately let in on the theory that the testimony was material to show the state of mind of the particular dealer, in showing the effect of the exclusive dealing contract.

Now, that situation differs most materially from the situation with which this court is presented here. In this case the court will examine the types of dealer contracts, written contracts, that are before the court and attached to the stipulation which is Defendant's Exhibit A, and you will notice there are two types of dealer contracts. Those pertaining to the so-called 337 stations are contracts that I believe the court examined while Mr. King was on the stand. Those are contracts that call for the sale by Richfield and the purchase by the dealer of a specified quantity

of material. It specifies a minimum and a maximum, and I believe the court will recall Mr. King testified that the dealer agreed to buy the minimum, and he has a right to buy the excess, up to the amount of the maximum.

As to the 3-C type of sales contracts, there are two different periods involved, two forms of written contracts covering the 3-C stations, and both sales contracts. Speak-
[fol. 1699] ing of the sales contracts attached to the stipulation between counsel, which is Defendant's Exhibit A, the sales contract that was used during the period from 1945 to 1948 covers the entire requirements of petroleum products. The court will also recall Mr. King's testimony that that form of contract was discontinued in 1948, I think in August he testified, and has never been used since, and that negotiations were undertaken to amend those contracts, and the form of contract that was substituted was a form of sales contract that provided for the sale of a quantity of gasoline in exactly the same form as the so-called 337 sales contract, that is to say, a specified quantity, setting forth a minimum and a maximum.

Now, where a particular service station is involved and is being testified to by a competitor witness, if it involves a 3-C sales contract, which was entered into on the old form, the entire requirements form, prior to 1948, I think that testimony of that sort is comparable to the testimony which your Honor admitted in the Standard Oil Company case. As to either of the other two types of contracts, either the 337 contract, which has been on a stated quantity basis from 1937 until this date, as your Honor will see by the stipulation between the defendant and the government, or if the testimony relates to a station which is a so-called 3-C station, as to which the sales contract was written subse-
[fol. 1700] quent to August of 1948, as to either of those types of stations the court will see that the contract between Richfield and that particular service station dealer is not an entire requirements contract, it is not an exclusive dealing contract, but it is a contract for a specified quantity. Therefore, testimony of a particular competitor as to conversations with the dealer can have no bearing on the issues in this case with respect to its effect. The only purpose, we submit, of testimony that would be offered of that sort, of a statement by a competitor witness,—let's assume it would

be a 337 dealer or a 3-C dealer after 1948, the only purpose of that would be an effort to show an agreement by that particular dealer that he would not buy and could not buy particular products, whether that be true or not true. But the court will perceive that in a situation where you have a written contract that shows the relationship with the company, the only purpose of testimony of that sort would be an effort to establish the terms of a different contract by hearsay testimony.

The Court: The hearsay rule would not apply to a proceeding like this, where the object of the government is to establish as to each of these connections that notwithstanding your paper work, in reality they were all-requirements contracts, and were so understood and interpreted by the parties to them.

[fol. 1701] Mr. Paradise: But if the court please,——

The Court: That is the theory of the government. To follow your suggestion, the law suit would be over, because I would have to agree with you that you have established by the paper work three different types of contracts, and you would call on me to determine what they are, and I would have to determine that the L-O contracts are the only ones in controversy. Then I would have to tell the government that I had enough on that, and you would put your proof in on those, and the case would be over by the end of the week.

Mr. Paradise: No, I don't believe so, your Honor.

The Court: I cannot see that at the present time, and until the court has actually determined, as a matter of law, that there is a distinction between the three types of contracts, this testimony is just as admissible as to other than L-O stations, and you admit it is admissible as to L-O stations, upon the theory, which I stated a moment ago, that it is admissible in a case of this character because we are on the equity side of the court, and you know that the rules of evidence do not apply with great particularity to the equity court. In England they did not even apply the rules of evidence. They were introduced in England in common law courts when the jury system was introduced, in order to help the layman understand evidence, and so the ordinary rules of evidence were applied.

[fol. 1702] One day when I was sitting in my first three-

judge court with Judge Wilbur, who, as you know, had a long career as a trial judge, which began as a Superior Court judge of this county, and before whom I tried my first important case, Snively v. Los Angeles Record, when the evidence came before us in the three-judge court, he said, "Oh, let it go in. We are supposed to disregard it if it is immaterial."

I do not adopt that loose attitude toward the subject. I am merely relating the opinion of a judge of the Court of Appeals, whose opinion was binding to the exclusion of all the others. That is what he thought of allowing in evidence in an equity case. As I say, I do not go to that extent, but I still say that if the government is going to be permitted to go behind your paper work and to show that in reality by means of a contract by which you agreed to furnish so much gasoline, and then a supplemental contract by which you agreed to repaint his station, and he was to repay you for the cost of the painting if he took off your sign, and you retained the privilege under the painting contract of not allowing him to put up any other sign, and in other ways, so that in reality you were supplying all the needs of that man, and the testimony is that the man who was in charge of the station so understood it, I say that is admissible, because when it comes to the effect on commerce, the Supreme Court, since the very beginning of the cases [fol. 1703] involving these various methods which have been devised to conform to the law or to get around those provisions—I use the words "get around" not in an obnoxious sense—from the time of the Hardwood case, where they claimed that all they did was to sit down and exchange views, down to the Salt case and the Masonite case, on which you rely so much, have held it is the practices which followed rather than the agreement which gave the clue to what the agreements were. In fact, in many of these cases there wasn't any paper work. They had a minimum of paper work. In the Fashions case, and in all the cases, that method was the only method which enabled the court to get at the situation as it actually existed.

It may well be that at the conclusion of the government's case, I may be satisfied that they have not been able to show the existence of minimum requirements as to these contracts other than L-O stations. But until that is demon-

strated, I will have to proceed on the assumption that there will be evidence in the record tending in that direction, that there is no distinction as to determining the effect on the mind of the operator.

In the National Labor Relations Act cases the courts, in order to determine whether or not there was an unfair practice, have repeatedly allowed evidence to go in as to whether particular persons understood what they were [fol. 1704] required to do, whether it related to calling them into a shop conference, on the boss, as it were, giving them free time to hear a lecture, or the like. They have taken those things, and gone behind the situation, and have not only shown what was said, but the effect on the persons involved, whether in reality it was a threat to either "do this or else."

So you have stated your position fully, and I have stated it fully, and the objection will be overruled.

Come back, Mr. Ellis.

Mr. Somerville: In the light of your Honor's ruling, and in compliance with your instructions to identify the type of outlet, we would like to bring in the documents concerning the attempts, and hereafter we will furnish Mr. Paradise in advance a list of these documents that we desire in connection with the particular witness' testimony.

The Court: I think that is the more orderly procedure.

Mr. Paradise: We will be glad to furnish them, Mr. Somerville.

The Court: All right.

Mr. Somerville: I might say, your Honor, also that in line with your Honor's comments, we are limiting the number of leased out dealers who would testify from here on in, and they will be primarily illustrative of this supplier [fol. 1705] attempt. So in every instance we will not have the operator of a leased out station in court here concerning whom an attempt was made.

[fol. 1706] The Court: I do not think it is necessary. We just went through a criminal case and, you know, there are some lawyers of standing who believe that if the Government, for instance, does not produce all the witnesses, we have got to consider that. And that happened to a lawyer who could not claim ignorance, because he was a former acting solicitor of the United States of America. I said

the Government can limit the number of witnesses they are going to bring in and you can draw an inference, even talk about it. It is an erroneous belief that any litigant must produce all the testimony. As a matter of fact I have never, even in the state court, given the instruction that many lawyers want, that if there are witnesses available and you do not produce them, the presumption is they would not tell the truth. The only thing occurs where you actually show that some witnesses were available and it was your duty to put them on and you did not put them on because they would contradict your story.

And ultimately, in a civil case especially, in any case the person who puts on a witness vouches for him, and if you subpoena a person, even subpoena a person under the assumption that he would testify according to certain ideas you have, and you discover that his ideas were not that, as a matter of fact you should keep him off the stand, because when you put him on you are bound by his testimony and you are confronted in that situation with impeaching your [fol. 1707] own witness, which is a very difficult process.

So I am quite certain counsel in this case, at the completion of your case, are not going to produce the list and say: "Look, he has a lot more witnesses and did not bring them on. Why didn't he bring them on?" So I am giving them warning now, if they have any such ideas, what my views are. For instance, as I myself suggested, this is a matter of curtailment, and if you have four or five witnesses who testify as to a pattern and your pattern is shown to exist in six of the states, you do not have to produce any more in order to make the case top-heavy, because ultimately one witness whose testimony the court believes is sufficient foundation for a finding of fact which the court must make.

So that you are not only right legally in limiting the number of your witnesses but you are also correct tactically and in accordance with the policy I like to be followed in this case.

As I said—maybe I did—as I say, I have talked anti-trust so much, but in this meeting between four of us judges—Judge Prettyman, Chairman of the Commission, and Judge Augustus Hand of the Court of Appeals of the Second Circuit, and Judge Libell of the Southern District of New York and myself, and 12 members of the Committee on Antitrust

Procedure of the New York Bar, headed by Mr. Breck McAllister who used to be a professor of law at Berkeley many [fol. 1708] years ago—in fact, born in this state—when I told them that some of the difficulties they seemed to be having in the east did not even arise—somebody complained about some of the things Mr. Dixon is supposed to have done in the Lead case—I said he did not try that kind of stunt in my court. So when I told them about the methods we adopt of limiting the issues and curtailing cumulative testimony, one man said to me, "Why, you have adopted the English system." I said, "The English, heck. The only time I was in England was when my ship from France touched Portsmouth." And I said, "I don't know anything about English procedure except from reading." I said, "This is a method we have devised in California—a method which we have followed in the state courts, too, because we are heirs to your system, and that is to the reform system of procedure which you adopted in New York first and which we have adopted afterward." And I said, "You have devised these methods of regulating the conduct, not to allow lawyers to go on and on until they feel the record is saturated and they have enough to convince you." I said, "I tell a litigant in a certain case when I think the point of saturation has been reached."

So I am making these general observations not as a compliment to myself, because the method I follow is the method that has been followed by others not only here but up and down the coast in the trial not only of these cases [fol. 1709] but of other cases. Even in the criminal case I just finished I called in the attorney and told the Government. I said, "Look, you have got 41 counts. I have got an important piece of civil litigation here waiting for me. Why do you want to offer evidence as to 41 counts. There is not any jury here. You cannot impress me by bulk." And I said, "This is not a mail fraud case where the postal agents, you know, always bring in a cabinet full and you hurt their feelings if they go out with anything in the cabinet." There used to be one in particular, Inspector Smith, you know, and he used to believe that if he wheeled in a cabinet and if there was one piece left when he left out of here, that I did him wrong. So I said to him. "Look, why don't you just choose your best and offer evidence, just as

you do in a patent suit." I tell the lawyers, "Look, why don't you give me five of your best references out of the 300 in the prior art and let's see how strongly they stack up."

So the Government chose 15 and they offered evidence as to 15. By the time the Government's case was ended I threw out seven, which left eight, and by the time the whole case was in I threw out two more, and ultimately I found the man in front of me guilty. I tried it without the jury and found him guilty of six counts.

This process of elimination is a legitimate way of trying all lawsuits, and it is the duty of the judge. I think the reason so many complaints arise is because judges do not [fol. 1710] feel that it is their duty to control proceedings. They are afraid some lawyers' feelings will be hurt. Well, I have hurt lawyers' feelings for 24 years and they are still my best friends. If I wanted any help or even a recommendation, I am sure that some of the men who contested most strenuously would give it. As a matter of fact, I probably would say if I wanted a letter of recommendation, none would give me a more glowing one that John Wall whom we could not even make smile in the Richfield case.

So I believe your policy is a correct policy and I approve it. Let us go.

By Mr. Somerville:

Q. It is a long time, but we were on this Colmery, Mr. Ellis, and I believe you testified that you did attempt to sell him and you had certain conversations concerning your inability to sell.

A. That is correct.

Q. First of all, what was the period of time that you were making these attempts?

A. Well, it has been practically ever since the man had the station.

Q. Over a period of years?

A. Yes, and even up to the present time.

Q. And when did any conversations occur concerning his inability to handle or concerning the reason why he could not handle your oil?

[fol. 1711] A. Do you want me to tell you the basic facts of the conversations?

The Court: That is right. But what he wants more is to give us a starting point, an idea of it. You do not have to say it was on Wednesday, such and such a date, but give us approximately one of the early ones and then one of the late ones.

Mr. Somerville: Yes, for example, when you first called on the man and experienced any reaction, when would that be?

A. Well, I think—it is pretty hard to state a date or month of the year, because when we call on a place so many times during the year it is pretty hard to put your finger on that, because you make regular calls all the time and you go in and visit with a man, and the ultimate result is the same basic facts each time that you talk with him.

Q. Then, let us take one of your last visits.

A. Well, the last interview I had with this particular man, he wanted to know if——

The Court: When was it? Tell us when it was.

By Mr. Somerville:

Q. When was it, this year?

A. Yes, this year, this year. It was within the last——

The Court: That is all right.

The Witness: Since the first of the year.

The Court: This is an equity case and anything that exists up to the time of the decree may be gone into without [fol. 1712] supplemental proceedings. Go ahead.

By Mr. Somerville:

Q. On the first of the year, when you called on Mr. Colmery, what was the reason that he gave for not buying?

A. Well, I made this particular call at his request through one of my other accounts, and when I got there he wanted to know if he could get a case of Pennzoil for a particular customer. And then he went on with his conversation and he said, "I can't stock this product, you know, because the Richfield Oil Company will not permit it, but I would like to get this case of oil." And I suggested, "Well, I suggest then that you get this case of oil from one of your other dealers that does carry Pennzoil." Because, if I sold him,

he would have to make out a California state sales tax number, etc., and there would be a definite invoice to him, and I didn't want to get the man in trouble because he is a very nice fellow.

The Court: What did he say to that suggestion?

The Witness: He said he would do that, he would pick up the case of oil at some other account.

The Court: All right.

By Mr. Somerville:

Q. Calling your attention now to the service station operated by——

The Court: Wait a minute. Well, I will leave that out.

By Mr. Somerville:

Q. One more question concerning Mr. Colmery. Have [fol. 1713] you ever made any regular sales of Pennzoil to Mr. Colmery?

A. No, I haven't. I still haven't given you the basis of the conversation that I had with him.

Q. Go ahead.

The Court: I started to ask you that. Had you had any conversation at other times with him along the same lines?

The Witness: I have.

The Court: Can you give us the dates of those, approximately?

The Witness: Well, that would be at various times during the year, Judge.

The Court: During what year?

The Witness: Well, this year, last year.

The Court: Now, you have told us about the beginning of this year. Let us go to 1949. Give us the substance of any conversation that you had with him at that time. I mean 1950, not '49.

The Witness: Yes. Well, the basic facts that he gave me for his reason for not buying Pennzoil was the fact that—I brought up the point in my sales talk, because naturally I am trying to sell all the products I can—that the Richfield Oil Company could not prohibit him from buying

Pennzoil, because it had been already established by a criminal court case that that could not be done legally. And he [fol. 1714] said, "Well," he says, "I know that." And he said, "But," he says, "I have been told in various ways that if I did handle an outside product that there would be other means and other excuses to get rid of me."

By Mr. Somerville:

Q. Calling your attention to a service station operated by Lawrence Beischell at 132 East Foothill Boulevard, Monrovia, California, are you familiar with that station?

A. Yes, I am.

Q. Does that station dispense Richfield gasoline?

A. That is right.

Q. Have you called on that station?

A. Well, not for some time, Mr. Somerville. That particular station was taken out of my territory, that is, Monrovia was taken out of my territory here sometime ago and the evidence that I would have to give on that station would be prior to that time.

Q. Okay. When, sir, did you make calls on this station?

A. Prior to two years ago.

Q. Did you ever sell any of your products to Mr. Beischell?

A. No.

Mr. Paradise: May it be stipulated that Beischell was an L-O station?

Mr. Somerville: Yes, it may.

[fol. 1715] The Court: All right.

By Mr. Somerville:

Q. Calling your attention to the physical properties there, what type of station? Can you tell us about the property?

A. Yes. It faces on Football Boulevard and it has back shops behind it.

Q. Garage, you mean?

A. A garage, that is right.

Q. And did Mr. Beischell also operate the garage?

A. No. He had an arrangement with a man by the name of Bud Miller who operated the garage, part of it at that time.

Mr. DeMartini: I move to strike that as a conclusion of the witness, your Honor.

The Witness: That is not a conclusion.

The Court: Read the answer. I think the first sentence was all right.

(Answer read by the reporter)

The Court: I think I will leave everything after the answer "no" to go out, because I can't tell whether he is telling us what this man told him or whether he found that out in other ways, and we ought to know.

By Mr. Somerville:

Q. Do you know whether Mr. Miller was——

A. He rented the place from Mr. Beischell.

Q. Did he tell you that?

[fol. 1716] A. Yes.

Q. At that time?

A. That is right.

Q. Did you sell any Pennzoil to Mr. Miller?

A. Yes, I did at one time.

Q. But you did sell no Pennzoil to Mr. Beischell?

A. That is correct.

Q. Did Mr. Beischell tell you why he did not buy?

A. Yes, he did.

Q. What was his reason?

A. He was not permitted to buy on account of his contract with the Richfield Oil Company.

Q. Did you continue to sell Mr. Miller?

A. For a time.

Q. Was there any circumstance that arose concerning your sales to Mr. Miller affecting your sales?

A. Yes, there was.

Q. What was that and when did it occur?

A. A few years ago. Well, Mr. Miller told that the Richfield Oil Company supervisor brought pressure to bear on Mr. Beischell and himself to discontinue the sale of Pennzoil, and he ultimately did just that.

Q. Calling your attention now to a service station operated by Clarence Fisher, 416 West Las Tunas, San Gabriel, California, have you ever called on this station?

[fol. 1717] A. Yes, I have, last year.

Q. Has Mr. Fisher purchased any Pennzoil?
A. No, he has not.
Q. Is that a station dispensing Richfield gasoline?
A. That is correct.

Mr. DeMartini: May it be stipulated that that is an L-O station?
Mr. Somerville: Yes, it may.
The Court: All right.

By Mr. Somerville:

Q. Have you had any conversations with Fisher concerning his reason for not purchasing Pennzoil?
A. Well, he told me in no uncertain terms that he was not allowed to handle any outside product.
Q. Calling your attention to a service station operated by Warren Lester at 416 West Las Tunas in San Gabriel, have you called on that station?
A. That is one and the same station. Mr. Fisher is the successor to Mr. Lester.
Q. Was it dispensing Richfield gasoline?
A. That is right.
Q. Prior to that time?
A. That is right.
Q. Did you sell any of your products to Mr. Lester?
A. No, I did not.
Q. And did you have any conversation with Mr. Lester [fol. 1718] concerning his reason for not handling it?
A. Yes, I did.
Q. And when did that occur?
A. That occurred just about two weeks before Mr. Fisher took over.
Q. And what was the nature of that conversation? What reasons did he assign?
A. He told me that it would be foolish for him to attempt to put in Pennzoil because he had put in Quaker State and the Richfield supervisor had asked him to get it out of the station.
Q. Calling your attention now to a service station operated by Charles Waugh, 645 East Main Street, Alhambra, California, have you ever called on that station?
A. What is that address?

Q. 645 East Main Street in Alhambra.
A. Oh, yes.
Q. Does that station dispense Richfield products?
A. Yes, it does.
Q. Were you able to make any sales to Mr. Waugh?
A. Not at all.
Q. Did you have any conversations concerning the reason for his not handling Pennzoil?
A. Yes, I did.
Q. And when did those conversations occur?
[fol. 1719] A. Well, on several occasions during particularly this last year, on my regular calls.

Mr. Paradise: Mr. Somerville, are all these stations that you have mentioned, with the exception of the Colmery station, L-O stations? I think, in response to the court's suggestion, that you should indicate the type of station, because this afternoon we will have all our contracts here.

The Court: All right.

Mr. Somerville: I am not quite sure of that station.

The Court: I think, gentlemen, we ought to confine ourselves to the stations which deviate from L-O, because we know the pattern as to L-O, and if you gentlemen agree that the station is an L-O station, what is the use of having other evidence in the record and encumbering the record by contracts relating to them?

Mr. Somerville: We have, your Honor, limited our number of L-O incidents.

The Court: I know that. The only point is, upon the stipulation that he has made that that is an L-O station, then that should take the place of introducing the contract as to that station. The evidence relating to the conversation is in.

Mr. Somerville: Yes.

The Court: And if you have a stipulation that this is an L-O station, there is no need to bring the contract in which would show that it was.

[fol. 1720] Mr. Somerville: Oh, no. We would not require that.

The Court: I misunderstood Mr. Paradise.

Mr. Somerville: I think I am responsible for that.

The Court: Mr. Paradise's statement. I thought that

he thought that, as to these, you were going to produce the contracts. What is the use of it?

Mr. Paradise: I did not intend that, your Honor. Counsel said that this afternoon we should start bringing in the contracts that he asks for, which I will do.

The Court: That is all right. But, I say, he need not ask for those under L-O stations.

Mr. Somerville: Yes.

The Court: All right.

Q. By Mr. Somerville: Continuing on, then, and calling your attention, Mr. Ellis, to a service station operated by a man, William Hall, at 563 East A Street, Ontario, California, have you called on that station?

A. Yes, I have.

Mr. Somerville: May it be stipulated that that is an L-O?

Mr. Paradise: Yes, so stipulated.

By Mr. Somerville:

Q. And have you made attempts to sell Mr. Hall?

A. Well, that has been very recent, because Mr. Hall was in that station once before that with another man and the [fol. 1721] man was killed in an automobile wreck. So the station was closed for quite some time and then Mr. Hall and a new partner took over the station, and that is within the last—I am just guessing—this should be the last seven or eight months. It is approximately that.

Q. Did you sell any of your products to him?

A. No. I can give you some basic facts on why.

Q. Did you have some conversations with Mr. Hall concerning it?

A. Yes.

Q. During just recently this year?

A. That is right.

Q. And what were those conversations?

A. Well, on one particular call that was the last one that I made on him—I haven't made any calls on him since, because I found it was useless—and I called this particular time at his request. He asked the Citrus Motor Co. in Ontario to get him some Pennzoil on their invoice so that he could have it at the station, so he would not have an in-

voice to show in his station for buying that Pennzoil, an outside product.

Mr. Paradise: I move that that be stricken as improper.
The Court: Just a minute.

By Mr. Somerville:

Q. Is this part of the conversation?

The Court: You are telling us what he told you?
[fol. 1722] The Witness: I am telling you what the dealer told me.
The Court: Yes. All right.
The Witness: Yes.
The Court: Overruled.
The Witness: And so that was his reason for getting the Citrus Motors to pick up this oil for him. So I felt I had to find out why I couldn't sell him direct, that that other procedure was a little out of line, due to the sales tax difficulties and one thing and another for the State of California. So he told me. He said, "Mr. Ellis, when Richfield Oil Company gave me this lease they made me promise that if I got the lease that I wouldn't handle any outside products, and that if they did give me the lease and then after I got the lease I did handle some outside products, they would find excuses enough to get me out and cancel my lease." Now, that is exactly what he told me.

By Mr. Somerville:

Q. Calling your attention now to the service station operated by Gene Gay at 2082 Fourth Street, LaVerne, California, are you familiar with this station?
A. I am.
Q. And it dispenses Richfield gasoline?
A. That is correct.

Mr. Somerville: May it be stipulated that is an L-O unit?
[fol. 1723] Mr. DeMartini: So stipulated.

By Mr. Somerville:

Q. When did you call on that station?
A. I call on that station every two weeks.

Q. And do you still call on it?

A. Oh, yes.

Q. Are you selling any of your products?

A. I am.

Q. In regular quantities?

A. Regular case lots. Well, whatever he requires, yes.

Q. Do you observe whether Mr. Gay displays these products?

A. He does not.

Q. Where does he keep them?

A. Well, he told me he had to hide it, and he showed me where he kept it and it has been the procedure whenever I call on him to find out how his stock condition was, to go into this cabinet and count his stock and tell him what he needed, or he would do that, and that is the way I got my order. But he couldn't make any display of it and——

The Court: Where is this cabinet located?

The Witness: It is located in the station on the right-hand side of the station as you are standing in the station facing the street.

The Court: I see. All right.

[fol. 1724] By Mr. Somerville:

Q. Have you made any effort to encourage the display of this product?

A. Well, yes. I tried to get him to put out a Pennzoil curb sign, out in front, and he said, "I would not dare do that."

Q. Calling your attention now to a service station operated by Louis A. Towers at 303 East Foothill Street in Azusa, California, have you ever called at that station?

A. Yes, I did during last year. I haven't called there this year.

Mr. Somerville: May it be stipulated that it is an L-O station?

Mr. DeMartini: So stipulated.

By Mr. Somerville:

Q. Has he purchased or did he purchase any Pennzoil?

A. No. That is the reason why I am not calling on him this year.

Q. Did he tell you the reason?

A. The same as——

Q. First of all, were there any conversations concerning the reason?

A. Oh, many times.

Q. And when did one of these occur?

A. Well, practically any two-week period you want to take out of last year.

Q. What did Mr. Towers tell you?

[fol. 1725] A. That he could not stock Pennzoil because the supervisor of the Richfield Oil Company would not permit him to stock other products.

Q. Calling your attention now to a service station operated by Donald L. King at 155 West Foothill in Azusa, California, have you ever called on this station?

A. Yes, I have last year. I have not called on him this year.

Mr. Somerville: May it be stipulated that this station is an L-O?

Mr. DeMartini: So stipulated.

By Mr. Somerville:

Q. Were you able to sell any of your products at this station?

A. No.

Q. Did you have any conversation with him concerning the reason?

A. Yes, I did.

Q. When?

A. Most any time last year on those calls.

Q. What were the reasons you found?

A. Well, he was afraid to handle outside products because it was his understanding that if he did his rent would be raised, either that, or he would be cancelled out.

Q. Did he express any desire to handle your products?

A. Oh, yes. They all do.

[fol. 1726] Q. Calling your attention now to the service station operated by Stanley Patera, 137 East Valley Boule-

vard, Alhambra, California, have you ever called on his station?

A. Yes.

Mr. Somerville: May it be stipulated that Mr. Patera's station is an L-O station?

Mr. Paradise: So stipulated.

By Mr. Somerville:

Q. Were you able to sell anything to Mr. Patera?

A. No, I have not been.

Q. Did you have any conversations with him concerning his reasons?

A. Yes, I did.

Q. And when did they occur?

A. Well, any time during the past year, not this year. I haven't called on him this year, either, for obvious reasons.

Q. What were those reasons?

A. It was that the Richfield Oil Company objected to him handling outside products and he was afraid of the cancellation of his lease.

Q. Did he express any desire to handle your product?

A. Oh, yes. He said he would like to have it because he had many calls for it.

The Court: Your concern is one of the best known lubricating manufacturers in the country, isn't that true?

[fol. 1727] The Witness: That is right.

The Court: And then you have this "Pennzoil" which is an artificial trademark which is your own. It is catchy.

The Witness: That is right.

The Court: Because it combines Pennsylvania with oil.

The Witness: That is right.

The Court: And people can say "Pennzoil" very easily. It is like any other designation. It is easier to pronounce, naturally?

The Witness: That is right.

The Court: I think we had better have a short recess before we begin the cross-examination, so we won't break into it.

(Short recess.)

[fol. 1728] Mr. Somerville: I would like to request permission to ask Mr. Ellis a few more questions.

The Court: All right.

Direct examination (Continued).

By Mr. Somerville:

Q. Mr. Ellis, calling your attention to a service station operated by James E. Battles at 800 East Valley Boulevard, San Gabriel, have you ever called at that station?

A. Yes, I have.

Mr. Somerville: Is it stipulated that is an L-O unit?

Mr. Paradise: So stipulated.

By Mr. Somerville:

Q. When did you call on this station, Mr. Ellis?

A. My experience at this station was in January to April, 1950.

Q. Did you sell any lubricating oils or greases to that station?

A. I sold him some lubricating oil, yes.

Q. Did he continue to buy it through the whole period?

A. No, he didn't.

Q. When he discontinued buying it, did you again attempt to sell him? I mean, were you attempting to sell him after that time?

[fol. 1729] A. Well, it came as quite a surprise to me. I walked in to get a repeat order, and he told me that the Richfield supervisor had been in there and discovered where he hid it, along with Quaker State oil, and told him to get it out of there, and if he ever did that again, why, he would cancel him out.

Q. And then he didn't take any more?

A. Then he didn't take any more.

Mr. Somerville: That is all.

Cross-examination:

Mr. Paradise: I merely want to state for the purpose of the record, your Honor, that I understood my objection went to this entire line of testimony?

The Court: Oh, yes, that is right. That was very clear. That is why we took time to have you state fully your objection, and I stated my reasons in ruling, and there is no need to repeat it.

Mr. Paradise: Yes.

The Court: The objection is considered as applying to any testimony as to any conversation with any operator, as you call them, of stations other than L-O stations, on the ground that by reason of the nature of the relationship they are hearsay and not material.

Mr. Paradise: I did have an additional and completely [fol. 1730] independent ground for the objection, which I would like to present to the court at a convenient time, whenever it is convenient.

The Court: This man seems to be in a hurry to get out, so let's go ahead with him. Then when the next witness comes up, you can repeat your objection and add the additional ground.

Mr. Paradise: Thank you, your Honor.

By Mr. Paradise:

Q. Mr. Ellis, how long have you been employed by the Pennzoil Company?

A. Since February 18, 1929.

Q. 1929?

A. Right.

Q. In what capacity?

A. As a salesman.

Q. During that entire period?

A. Well, the first nine or ten months I was a truck driver.

Q. You are one of the top salesmen of the Pennzoil Company, I would presume?

A. Well, I wouldn't say that. I have been fairly successful.

Q. Have you operated in other territories than in the one you mentioned this morning?

A. Yes.

[fol. 1731] Q. For the Pennzoil Company?

A. Oh, yes. In 1940 and '41 I was in San Diego.

The Court: By the way, you were a witness in the Standard case, weren't you?

The Witness: That is right, Judge.

By Mr. Paradise:

Q. Well, from 1930 to 1940, what was your business?
A. I was a salesman for Pennzoil.
Q. For Pennzoil in that same territory?
A. Yes.
Q. And from 1940——

The Court: It must be a profitable position because they don't promote them out of it.
The Witness: No, I don't want to be promoted.
The Court: You don't want to be kicked upstairs?
The Witness: That's right. I don't want to have anything to do with brass.

By Mr. Paradise:

Q. Since 1940 you have been in what territories?
A. Well, in 1940 and 1941 I was in San Diego for the Pennzoil Company. Then I was brought back here, due to the war conditions, and so forth, and resumed my old territory down here, because I was only down there temporarily to straight out some difficulty they were having with a former manager down there.
[fol. 1732] Q. And since 1941 your territory has been in and around Los Angeles?
A. Well, I came back actually in March of 1942 to this territory.
Q. So your territory since 1942 has been the one that you have described?
A. That's right.
Q. What are your general duties as a salesman?
A. Well, my instructions from my supervisor are to call on all stations, garages, repair shops, and motor car dealers.
Q. That is, in your territory?
A. In my territory, regardless of what kind they are.
Q. Regardless of what?
A. Regardless of any condition, I am to call on all stations.

Q. Now, how do you determine who are prospects for your product?

A. Any station that doesn't carry Pennzoil.

The Court: That is a challenge to you?

The Witness: That is right.

By Mr. Paradise:

Q. Do you drive along the street, and any service station is a prospect?

A. You betcha, that's it.

Q. How many calls do you make a day?

[fol. 1733] A. Oh, that varies. Sometimes when I have got delayed, maybe by court trials, or something like that, I make 35 or 40 calls a day to make up.

Q. On different service stations in that area?

A. That's right.

Q. How often do you cover this territory?

A. Every two weeks. In some instance every week.

The Court: Of course, you first call on your regular customers in your territory?

The Witness: Well, I call on my regular customers, but if there is a prospect on that route, I get him too. I make calls,—I make regular calls.

The Court: I see. You make regular calls.

By Mr. Paradise:

Q. Now, the name of your company is precisely what?

A. The Pennzoil Company.

Q. Now, in what territories, in what area does the Pennzoil Company operate and sell its products?

A. Well, over the entire—they are a national and an international company.

Q. And you sell oil throughout the West Coast?

A. Oh, yes.

Q. How many salesmen does the Pennzoil Company have?

The Court: Where is the main office of the company?

The Witness: The main office for the eleven western [fol. 1734] states is at 942 South Hope in Los Angeles, and the mother company is in Pennsylvania.

By Mr. Paradise:

Q. When you speak of the Pennzoil Company, then you speak of a subsidiary company that operates on the West Coast?

A. That's right.

Q. How many salesmen does the West Coast company have on the Coast?

A. I am afraid, counsel, I can't tell you that, because I couldn't be accurate.

Q. Well, would you know that it is somewhere between 30 and 45?

A. It is all of that.

Q. Are there more?

A. Well, we operate over the 11 western states, and we have men going to all those districts, and we also operate, you know, pretty solidly in Oregon, Washington, and California.

The Court: What is your territory? I think you have told us, but I have forgotten.

The Witness: Well, it runs out through Alhambra and through Ontario. It is that streak between Valley Boulevard and the Foothills.

The Court: I see.

By Mr. Paradise:

Q. To how many accounts does the Pennzoil Company sell [fol. 1735] its products? By the way, let me ask a preliminary question. Is there more than one product sold, Mr. Ellis, or just one?

A. You mean from my company?

Q. Yes.

A. Well, oil and lubricants.

Q. All under the name "Pennzoil"?

A. Well, no, I wouldn't say that.

Q. Well, under what names?

A. Well, there is miscellaneous products that might carry different names than just "Pennzoil." Pennzoil refers to a motor oil, and the lubricants are called "Pennzoil" lubricants. Then there is motor purgers that are called

"New Zip." It says nothing about "Pennzoil." It is just a product of the Pennzoil Company.

Q. Are these the products you attempt to sell all service stations?

A. That's right.

Q. In what manner are they packaged? Are they all in cans?

A. No, they sell in bulk and in cans.

Q. Now, to how many accounts on the West Coast does the Pennzoil Company sell these products?

A. Counsel, I would suggest that you talk to the general sales manager of the company about that. I don't have [fol. 1736] that information.

Q. Thank you. I may not have an opportunity to do so, Mr. Ellis. Perhaps you can tell me.

A. Well, I just don't have that knowledge.

Q. Well, do you know within reasonable limits?

A. Well, it might be fifteen, sixteen, seventeen thousand dealers over the eleven western states.

Q. Is that your best knowledge?

A. That is just a guess.

Mr. Somerville: I object to that, counsel. He said he doesn't know.

By Mr. Paradise:

Q. You have attended sales meetings?

The Court: If counsel wants the information, as the witness states, it isn't very accurate, but whatever comfort he can derive from it is all right. Go ahead.

You have no control over the sources of information?

The Witness: No, none whatever, Judge.

The Court: You haven't seen it in the published literature?

The Witness: No, they don't publish anything of that nature.

The Court: Not to you?

The Witness: No.

The Court: No inter-company communications informing you?

[fol. 1737] The Witness: No. The only contact like that

that I would get would be just the number—probably the number of salesmen that works out of this Los Angeles branch that I associate with all the time at sales meetings.

The Court: How many would there be at that?

The Witness: Oh, about twenty, approximately twenty.

By Mr. Paradise:

Q. That is twenty salesmen out of the Los Angeles branch?

A. Out of this branch, but that does not include salesmen that work in, say, Bakersfield, Fresno, and San Francisco, and all up the Coast. That's just in Southern California.

[fol. 1738] Q. How many accounts do you personally have in your territory to whom you sold or to whom you are presently selling Pennzoil?

A. Well, approximately maybe 200. I have never actually counted them, but that is approximately what it is.

The Court: Your accounting is handled by the main office?

The Witness: That is right.

The Court: You are merely——

The Witness: The salesman.

The Court: Take an order?

The Witness: That is right.

The Court: And then you see that the order is filled?

The Witness: That is right.

The Court: And inquire on the next call whether he got what he ordered?

The Witness: That is right.

The Court: And then the billing, collection and all that are not handled by you?

The Witness: Well, some of the collections are, Judge, but most of it is handled by our credit department.

The Court: Do you collect sometimes when you make a sale?

The Witness: No, the driver does that. If it is a COD account the driver collects it. But many of my accounts pay me when I come in. They say they want to save that three cents and don't want to have to send it in.

[fol. 1739] The Court: So you collect and turn it over?

The Witness: Yes, sure.
The Court: All right,

By Mr. Paradise:

Q. Do you know, Mr. Ellis, whether the number of accounts that the Pennzoil Company has sold to has increased or decreased over the past five years?
A. It has very definitely——

Mr. Somerville: I object to that, counsel, as entirely irrelevant and immaterial.
The Court: Overruled. Go ahead.
Mr. Paradise: What was your answer, Mr. Ellis?
The Witness: Was I supposed to answer that?
Mr. Paradise: Yes, sir.
The Court: Yes. It has increased?

A. Well, I would say they have increased. How much I couldn't tell you.

By Mr. Paradise:

Q. You say it has very definitely increased?
A. Oh, sure.
Q. You are sure of that?
A. The company has progressed that way for a good many years.

The Court: And so have you?
The Witness: I would hate to think that my territory was decreasing, as far as that is concerned.
[fol. 1740] The Court: Or your individual ability as a salesman, wouldn't you?
The Witness: Yes.

By Mr. Paradise:

Q. Has that increase been reflected not only in the number of accounts but also in the volume of sales?
A. It has been reflected in the volume of sales, volume of dealers that are buying.
Q. I am afraid I did not quite understand that.
A. The increase is due to the volume that my present accounts are getting and the other accounts the other sales-

men have got, their volume has increased. Naturally, when you lose accounts you have got to make it up some place else in order to keep your quota up. You know, you don't stay long if you don't keep your quota up.

Q. You have a quota from the company?

A. Oh, absolutely. Don't they all?

Q. Then, do I understand your testimony to be that you have not only increased the number of accounts but also the volume of oil sold to each particular account or on the average?

A. That is right.

Q. Would you say that that has occurred over the last 10-year period?

A. Well, it has occurred over the last 20-year period, as far as I know.

[fol. 1741] The Pennzoil Company has prospered rather well in the last few years, has it not?

Mr. Somerville: I will object to that.

The Court: Just a moment, what was that?

(Question read by the reporter)

The Court: We wish them well. I presume the answer would be, "yes," but we do not want to go into that. The objection is sustained. I have no objection to the "increased," but whether they have financially prospered is not material in this lawsuit. I take judicial notice of the fact that the returns of the Department of Labor statistics show that in the last year the corporations in the country and the large business houses have had a very prosperous year. In the last quarter the sales were—I think I heard that on the radio—the accounts were, last quarter and the first quarter of this year, 29 per cent higher than the year before. So that, years ago, when you talked about a two billion income, we have, instead, three billion, and it is still going stronger, by the grace of God. So we are doing very well, despite all the crabbing that some people indulge in.

By Mr. Paradise:

Q. In your territory, Mr. Ellis, you have sold Pennzoil products to various stations which handle Richfield petroleum products, have you not?

A. That is true.

Q. You did not intend to give the court the impression [fol. 1742] that you were unable to sell your products to any stations handling Richfield petroleum products?

A. Well, I call on all Richfield accounts. As I testified before the recess, practically all of my sales was under that kind of basis of a hidden capacity, no display, no signs and what have you, if I did make a sale. And if I didn't it was for the obvious reasons that I have given already.

Q. You testified this morning concerning a conversation with Mr. Colmery at which you mentioned that it had been determined that he could not be legally prevented from selling anything but Richfield petroleum products, was that correct?

A. That is right.

Q. When did that conversation occur as nearly as you can fix it?

A. Well, it was last year, last fall. I would say approximately that time.

Q. You are talking about the fall of 1950?

A. Yes, the late fall.

Q. And where did this occur?

A. At his station there in Azusa.

Q. Who were present?

A. Just him, to my knowledge.

Q. Just the two of you?

A. Yes, that is right.

[fol. 1743] Q. As nearly as you can recall, please tell me what was said by you and by him.

A. Well, just in—just like I testified a while ago, that I was trying to sell him Pennzoil and obviously he couldn't buy it because——

Q. No, no, no. I want conversations, not what may have been your impression.

A. Well, his statement was just like I testified this morning, that he just couldn't handle it because Richfield Oil Company wouldn't permit him to handle it.

Q. That is what Mr. Colmery told you?

A. That is right.

Q. And what did you say?

A. I told him, legally, that that was not a fact. And he said, "Well, I don't know about that." And I said, "Well,

the Standard Oil trial that has just closed brought that point out, that it was a violation of the Clayton Act or restraint of trade law for any company to object to the sale of products of that nature."

Q. By the way, Mr. Ellis, you are not the salesman who has told service stations that since the decision in the Standard Oil Company it is compulsory on their part to buy Pennzoil products, are you?

A. Absolutely not.

Q. And that that was the effect of the decision?

[fol. 1744] The Court: When it comes to a lawyer, he gave you a pretty good summary. Don't cross examine him too closely. You do not want to quiz him too closely, you know.

By Mr. Paradise:

Q. What did Mr. Colmery respond to your statement that it had been determined that he could not be legally prevented from selling petroleum products other than Richfield? That was your testimony, was it not?

A. I didn't understand just what you meant there. Would you mind repeating it?

Q. When you told him about the effect of the Standard Oil decision, as you interpreted it, what did Mr. Colmery state?

A. He said, "Well, that may be true but they would cancel my lease on account of my handling Pennzoil, but they would find some other excuse, maybe the way I kept up my station and so forth as an excuse to get me out of here." That is what he told me.

Q. That is what he told you, that Richfield would find some excuse to get Mr. Colmery out of that station?

A. I get that statement from so many stations, counsel, that I just can't remember where I get them all.

Mr. Paradise: I ask that that be stricken, please, and confine yourself to my questions.

The Witness: I am.

The Court: You are positive he told you that?

[fol. 1745] The Witness: Oh, yes.

By Mr. Paradise:

Q. What was your conversation with Mr. Hall and when did that occur?

A. That occurred within the last six months. I can't put my finger on the exact date of that, but it was—your Richfield department can tell you when Mr. Hall took over that station. It was at the time when he took over that station, shortly after he took over the station.

Q. As nearly as possible can you fix the date of it?

A. Well, no. That would be pretty hard, counsel, for me to fix the date.

Q. Can you fix what month it was?

A. Well, as I recall it, it has been with—it was sometime between, possibly, since the first of the year, the first part of the year, maybe the last part of last year. But I think it was the first part of this year.

Q. You are talking about the first part of 1951?

A. That is right.

Q. And where did this conversation take place?

A. At his station.

Q. Who were present?

A. Just he and I. There was other help there, but then we were off by ourselves standing on the station lot.

Q. Standing on the lot?

A. That is right.

[fol. 1746] Q. Please tell me as fully as you can your entire conversation with Mr. Hall.

A. As I have testified this morning, he was trying to buy some Pennzoil through the Citrus Motor Co. because he didn't want to buy it on an invoice made out to him.

Q. Did Mr. Hall say this to you?

A. Yes.

Q. Yes. Will you please indicate what he said and what you said?

A. Well, Citrus Motors told me about it and I went over to find out what it was all about, and that is what he told me. And I asked him why he wanted to do that and he said, "Well, I don't want an invoice made out to me because," he said, "I can't handle Pennzoil here." I said, "Well, why can't you handle Pennzoil here?" He said, "Because I wanted this lease and the Richfield representa-

tive, whoever does that, submitted the lease to him and told him that he wouldn't give him the lease unless he would promise not to handle outside products." He didn't specifically say "Pennzoil." He said, "outside products," and that "if I did handle those products after he gave me the lease, that he would take ways and means of cancelling me out." "Therefore," he says, "I want the lease. I like the lease, so I can't take the chance."

Q. Did you ask him to show you the lease?

A. Oh, no.

[fol. 1747] Q. Had you had that experience with other Richfield operators, without telling about the conditions of their lease from Richfield, that they could not handle Pennzoil products or other competitive products?

A. Well, we don't discuss the leases. They just—I figure that that is rather private with them, and their story is that they would not be permitted to handle it and would be afraid to handle it for fear of what would happen if they did.

The Court: What counsel meant, discussion of the leases did not come up except as a part of other conversations relating to handling products, is that true?

The Witness: That is true.

The Court: All right.

By Mr. Paradise:

Q. Having been in the business of selling lubricating oils to service stations since 1929, Mr. Ellis, I presume you are familiar with the fact that various oil companies own service station properties and own the service stations?

A. Well, I have heard of it.

Q. And I presume you are also familiar with the fact that various oil companies lease service stations and own the buildings and pumps and tanks that are on those properties?

A. Yes, I believe I have heard of such a thing as that.

Q. Are you familiar with the fact that the Richfield [fol. 1748] Oil Corporation does that?

A. I would not be in a position to know one way or another whether they do or they don't. All I know is I

call on them to sell them Pennzoil and they tell me they can't handle it, and that is it.

Q. That was not my question, Mr. Ellis.

A. Oh.

Q. You are familiar with the fact that Richfield Oil Corporation does own service stations, are you not? I am not talking about any particular station. Perhaps you do not know which station is which.

A. I don't know which is which, no.

Q. When you go into a Richfield station do you make any inquiry whether Richfield Oil Corporation owns that station?

A. No.

Q. You do not?

A. I am not interested in that. I am interested in selling oil.

The Court: The only indication that you have as to the relationship of the company to him is the fact that it has the Richfield colors, is that true?

The Witness: That is true. Well, Judge——

The Court: You do not know the particular contract under which the man is operating? Did you just come in [fol. 1749] this morning or were you here last week?

The Witness: No, just this morning.

The Court: You heard them talking this morning about L-O contracts and other things. Have you ever seen any of them?

The Witness: No.

The Court: Do you know the difference between an L-O contract and the other two types that they are talking about?

The Witness: No, Judge. It is just like I said in my earlier testimony and on his cross-examination, they are all prospects to me and I am not interested in what kind of a station they are. If I can sell them oil, swell. If I can't, it is just too bad.

The Court: You do not know the conditions under which they work, and the only way you know that they have a lease of some kind is when they mention it?

The Witness: That is right.

The Court: You do not know the terms of the lease or how they are compensated or what, do you?

The Witness: No, I never go into that.

The Court: I see. All right.

By Mr. Paradise:

Q. You knew from Mr. Hall, however, that he had a lease from Richfield that could be cancelled if he sold or if he handled non-Richfield lubricating oils and greases?

[fol. 1750] A. He told me that they would cancel him out. I don't know what the lease was like. I have never seen it and he never even told me the terms of it.

Q. Your company is a competitor of the Richfield Oil Corporation in the sale of lubricating oils and greases at times?

A. Yes, I would say so.

Q. Do you consider the Richfield Oil Corporation a prospective prospect for your oil?

A. The company?

Q. Yes.

A. No, I would not say so.

Q. You have never tried to sell Pennzoil to Richfield?

A. No, not to my knowledge I haven't. Maybe somebody else has.

Q. Then it is a fact——

The Court: Do you deal with Richfield except through the stations?

The Witness: No. No, Judge.

The Court: All right.

By Mr. Paradise:

Q. You mentioned the Standard Oil Company case, Mr. Ellis. You are familiar with the fact that the Standard Oil Company has certain stations known as Standard Stations, Incorporated, painted red, white and blue?

A. That is right.

[fol. 1751] Q. You are also familiar with the fact that those stations are operated by salaried employees of the Standard Oil Company?

A. That is correct.

Q. Do you make an effort to sell your Pennzoil to those stations?

A. I never make an effort to sell directly anything, and that is what you would be doing if you were selling in the Standard Oil Company's retail service stations.

Q. Do you make any effort in that manner?

A. No.

The Court: Do you make efforts to sell to the Chevron stations?

The Witness: Yes, because they are independent dealers and they have their own tax number and they have to account to the California sales tax department for the sales they make.

By Mr. Paradise:

Q. Those are the independent dealers that you are referring to?

A. That is right.

Q. When you go to a Richfield station, as I understand—let me elaborate that—when you go into a service station painted in Richfield colors and talk to the operator, I understand that you do or do not ask the service station dealer or operator whether Richfield owns that station?

[fol. 1752] A. No, I don't, because I don't know that Richfield owns any stations to my knowledge.

Q. Well, my question is whether you do?

A. No.

Q. And your answer is you do not?

A. That is right.

Mr. Paradise: That is all.

The Court: All right. Any redirect?

Redirect examination.

By Mr. Somerville:

Q. Mr. Ellis, you testified that during a period of years you increased your sales of Pennzoil products. Have you increased your volume of sales to Richfield outlets?

A. Definitely not. In fact they are less than they were a year ago.

Mr. Paradise: The question has been answered.

By Mr. Somerville:

Q. Do you know whether Richfield stations you contact are operated by employees of Richfield? Do you have any information on that?

A. Well, to the best of my knowledge, Mr. Somerville, I don't know of any Richfield stations that are operated by Richfield operators in my territory.

Mr. Paradise: I move that that be stricken as having no proper foundation, calling for the conclusion of the witness.

The Court: I will sustain the objection. I allowed him [fol. 1753] to answer the question as to Standard because it was cross-examination. But I think this is a leading question. I will sustain the objection. He has already stated that he did not know the relationship.

By Mr. Somerville:

Q. You have testified, Mr. Ellis, on cross-examination that the various Chevron stations, the dealers there had their own sales tax numbers.

A. That is right.

[fol. 1754] Q. What is that? Do you know that from your own personal observation of those stations?

A. Well, because when I make a sale I have to get that number, if it is a new account. We have that number on file in our order department, and it is kept there until if it is changed or discontinued.

Q. And you do the same thing on contacts with Richfield outlets?

A. Oh, absolutely.

Q. Have you observed whether or not the Richfield dealers have been subjected to State sales tax collections?

A. Oh, Mr. Somerville, they all have to have a number. They have that from the State Tax Department, and I have picked them up as owners of the place.

Mr. Paradise: I move that the witness' answer be stricken as not material.

The Court: Oh, that is all right. If it is material——

Mr. Paradise: It is immaterial, and is the witness' conclusion.

The Witness: It isn't.

The Court: I think all after the statement that they have to have a number for the sales tax will be stricken.

Mr. Somerville: That will be all.

Mr. Paradise: No further questions.

The Court: All right. Step down.

(Witness excused.)

[fol. 1755] The Court: I think, gentlemen, we have got a good start. 2:00 o'clock.

(Whereupon, at 12:10 o'clock p. m. a recess was taken until 2:00 o'clock p. m. of the same day.)

[fol. 1756] Los Angeles, California, Tuesday, May 15, 1951. 2:00 P. M.

The Court: All right, gentlemen, call your next witness.

Mr. Hall: Mr. Weston.

Robert Weston, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination.

The Clerk: What is your name, please?

The Witness: Robert Weston.

The Clerk: That is W-e-s-t-o-n?

The Witness: Yes.

By Mr. Hall:

Q. Where do you reside, Mr. Weston?

A. Seattle, Washington.

Q. I can't hear you.

A. Seattle, Washington.

Mr. Hall: Can you hear him all right?
Mr. Paradise: Yes.

By Mr. Hall:

Q. Seattle, Washington. Will you speak loud enough, please, so that the gentlemen here at the counsel table can hear you?
[fol. 1757] A. Yes.
Q. You are presently with the United States Government?
A. The United States Navy.
Q. The United States Navy. Were you ever at any previous time employed by the Richfield Oil Company?
A. Yes, I was employed in 1940; I believe it was '40 to '41. Then again from 1946 to '49.
Q. Your first employment was as what?
A. Junior merchandiser with the company.
Q. Will you explain, very briefly, what a junior merchandiser was?
A. Yes. At that time Richfield had several stations they evidently couldn't find dealers for, so they started this plan of bringing men in to work as junior merchandisers. They would work right in the station, and they gave you a correspondence course that you filled out while you were working in the service station.
Q. While you were in that position, were you just operating the station?
A. Yes.
Q. And paid a salary?
A. Yes.
Q. Then did your employment change or, first, how long were you working as a junior merchandiser?
[fol. 1758] A. Approximately six or seven months.
Q. Was that when you ceased your employment with Richfield?
A. Yes, I went in the service then.
Q. Then were you reemployed by Richfield after you returned from the Armed Services?
A. Yes.
Q. What was the date of that?
A. Well, I didn't—I got out of service in 1945, and it was

about a year before I again went back to Richfield. Then I went in as a merchandiser.

Q. Did you receive any instructions or training?

A. Yes.

Q. From whom?

A. Mr. Douglas, Barton Douglas, was the teacher in the school. It was held in the New Washington Hotel in Seattle, and I believe it was a two-week course.

Q. In what year was that?

A. 1947. It was either 1946 or '47.

Q. About how many were there in the class?

A. Approximately 12 to 14 men.

Q. Of that number, about how many were merchandisers?

A. Approximately around four. Four were merchandisers, and the rest were city salesmen and industrial salesmen.

Q. Did Mr. Douglas give you in that school instructions [fol. 1759] and training as to your duties and responsibilities as a merchandiser?

A. Yes.

Q. With respect to the manner of inaugurating or indoctrinating a new dealer, what were your instructions as to that?

A. You mean, contacting the dealer and showing him through the routine?

Q. Yes.

A. Well, normally, before we could make a selection on a dealer, he had to be passed by Mr. Gilworth, who was a Seattle branch manager at that time.

[fol. 1760] Q. You mentioned the word "select." Did you yourself sometimes select the dealers?

A. Yes. We would find them, contact them and see if they were interested in a station, and then if they showed that they were interested, we would take them down to Mr. Gilworth who would talk to them and impress upon them the value of taking a Richfield service station, and more or less check to see if they had the capital because on several occasions that I have known up there, Mr. Gilworth would not give a man an okay to go in the station until he actually saw he had the money in the bank. In several occasions I had to go with the fellow and go down to the

bank and brought the money back and showed it to Mr. Gilworth.

Q. What else would Mr. Gilworth tell them in that first interview?

A. Well, of course, he would impress on their minds that they were an independent businessman.

Mr. DeMartini: I move that be stricken as a conclusion of the witness.

The Court: I beg pardon? I did not catch the statement, the basis of your objection.

Mr. Hall: He says—do you want the answer from me or from the record?

The Court: No, I want the record, of course.

(Answer read by the reporter.)

[fol. 1761] The Court: Read the question also.

(Question read by the reporter)

The Court: I think that may remain. That can be considered a statement of fact.

Mr. Hall: Go ahead, Mr. Weston.

The Court: But try to avoid conclusions, you know, such as to say "he would impress." If you say "he did impress," that means a fact. "He would impress," may mean a fact and may not.

The Witness: All right.

The Court: I do not know whether you have ever testified in court before.

The Witness: No, I haven't. This is the first time.

The Court: Well, all right.

A. And after Mr. Gilworth would get through talking to them, and if he decided that the man would probably make a good dealer, then I would take him up to J. A. Westlake and Son.

Q. Who is J. A. Westlake and Son?

A. He was Richfield's TBA distributor in Seattle.

Q. All right.

A. And would take him to J. A. Westlake and Son and show him the stock, everything Westlake carried, which was classified as Richfield-approved merchandise. And we would make contact through J. A. Westlake and Son to [fol. 1762] purchase his lubrication equipment, grease guns

and tools, etc. And then after he put his initial order for stock in, then we would go down back to the branch office and go over what the company policy was towards operating a service station.

Q. May I ask you here what you explained to him the company policy was?

A. Yes. Hours of operation was one of the main items.

Q. May I ask you on that subject who determined the hours of operation?

A. Mr. Gilworth.

Q. And he communicated them to you?

A. Yes, sir.

Q. Go ahead.

A. And also, about cleanliness of the station, and one important item, about handling off-brand merchandise.

Q. What did you tell them relative to off-brand merchandise?

A. Definitely not, definitely not. They were not to handle off-brand merchandise. That was understood even before we actually took the man to see Mr. Gilworth. That was more or less understood by him. Then we would go over the—I believe it was their five-point system they had about how to approach the customer and more or less general routine of how to meet people when they came in the station.

Q. Was there anything further done before the man was [fol. 1763] established as a dealer?

A. Yes. If he was taking over a station that was already occupied by another dealer, we would impress upon the new dealer's mind that there was a lot of stock in there that he did not have to take. Some—well, maybe there was Quaker State oil or some different type of tires other than Goodyear tires or batteries. We would tell the new dealer that he did not have to take that merchandise. And we would also contact the outgoing dealer and assure him that all of the merchandise would be sold and that he would not lose anything by it. And then in the process of putting the man in the station, we would have to get this termination signed first, even before we could start making a check-out. Well, when that was signed——

Mr. Hall: Just a moment, Mr. Weston, if I may interrupt Mr. Childress, I would like to have this marked as Government's exhibit next in order.

The Clerk: Government's Exhibit 11 marked for identification.

(The document referred to was marked Plaintiff's Exhibit 11 for identification.)

Mr. Hall: Would you read that last answer back, Mr. Reporter?

(Answer read by the reporter)

The Court: Do you want him to finish? You interrupted [fol. 1764] the witness before he finished the answer.

Mr. Hall: I am sorry. I did not realize I had. I thought he was finished.

The Court: No. He said, "when that was signed"——

Mr. Hall: That is when I wanted to get this agreement, your Honor. It has not been in evidence.

The Court: Well, all right.

By Mr. Hall:

Q. I hand you Government's Exhibit No. 11 and ask you if that is the termination agreement that you have referred to just now?

A. Yes.

Mr. Paradise: May we see it?

[fol. 1765] Mr. Hall: The government will offer its Exhibit No. 11 in evidence, your Honor.

The Court: All right.

The Clerk: Government's 11 in evidence.

(The document, heretofore marked Government's Exhibit No. 11, was received in evidence.)

By Mr. Hall:

Q. Now, what happened with that termination agreement?

A. Then after this termination agreement was signed, then the outgoing dealer either had to take it or like it on the checking out.

Mr. Paradise: I move that that be stricken, if the court please. That is a conclusion.

The Court: That may be stricken. If you told him that, all right, but unless you did, why, you can't say that.

By Mr. Hall:

Q. May I ask, Mr. Weston, what were your instructions relative to the obtaining of this Form 306 Termination Agreement, on checking out?

A. What was that again?

Q. What were your instructions, either from Mr. Gilworth or any other superior as to what you should do as to getting this Form 306 Termination Agreement, Government's Exhibit 11?

A. My instructions were to get that signed, first.

Mr. Paradise: I object to that for lack of foundation. [fol. 1766] Can we establish the person and the time, please?

The Court: He gave it in the alternative.

By Mr. Hall:

Q. Do you recall who it was that gave you those instructions?

A. Mr. Gilworth.

Q. Mr. Gilworth?

A. Mr. Gilworth, the branch manager.

Q. Do you remember when?

A. Yes. Every time that we had a dealer checked out, that was one of the histories, to have the termination signed first.

Q. Did he make any other statements?

A. No, just to get that signed first.

Q. Very well. Did he give you any other instructions relative to the manner in which you should check out the old dealer?

A. No. That was more or less—we had a set way of doing it, and it was done the same way all the time. The termination first, and then checked the stock and the inventory.

Q. Now, in addition to checking in new dealers, did you also supervise these stations?

A. Yes.

Q. And about how often would you call on the station?

A. I had 25 stations in my territory, and I usually—[fol. 1767] about every—at least once a week I would hit each station.

Q. Will you inform the court what your instructions and your duties were relative to these stations,—what Richfield required you to do?

A. Well, other than seeing that the maintenance was kept up all the time, it was our job to check the dealer's books at different intervals, to make sure that he was up on his sales, and the right average of sales, and also to assist him in merchandising and canvassing the neighborhoods, and we worked with the dealer a lot of times to assist him in just general operation of the station.

Q. What did you do relative to checking his stock or inventory?

A. Well, on checking his stock, we always had—I forget what they were—had one for each size of station, and he had so much stock he was to handle or keep at that station, and it was our business to see that that stock was kept up all the time, and that he carried Richfield approved merchandise.

Q. What were your instructions if you found merchandise in there that was not Richfield approved merchandise?

A. Well, we were told to get that out of the station some way or other. They always stressed that we, being salesmen, could sell a dealer on the idea of only handling Richfield [fol. 1768] products, and if we did find anything at the station, such as Quaker State oil or MacMillan Ring-Free oil, or other tires and batteries, we could tell him to get it off the station or he would know what the consequences would be, because he was told that before he went in the station.

Q. Were you given any instructions as to what you should do in case the dealer would not get rid of those unapproved products?

A. Yes, sir. In several cases I would make my report to Mr. Gilworth, and Mr. Gilworth would say, "Keep your eyes open for a new dealer, and we won't tell the dealer about it, but when we get a new dealer, we will make arrangements to get the other man out."

Q. Calling your attention to a dealer by the name of Don Wright. Do you remember him?

A. Yes, sir.

Q. Do you remember taking care of his station——

A. Yes, sir.

Q. —in line of your duties? Where was his station located?

A. 73rd and Aurora in Seattle, Washington.

Q. In Seattle, Washington. What was the experience you had with Don Wright, and will you kindly place the date as nearly as you can, Mr. Weston?

[fol. 1769] A. Well, I think this started in 1947, I believe, or '46, the latter part of '46, that Don Wright had Quaker State oil in his station, it was said, and Mr. Gilworth knew it was there, and he contacted me all the time and would ask me if Don Wright had gotten that Quaker State oil out of the station. And a lot of times I would tell him that Don Wright had told me that this was the last batch he was going to buy, he wouldn't re-stock again as soon as this was gone, but that kept on all the time, and, finally, we made a dealer change.

Q. At whose suggestion was the dealer change made?

A. Mr. Gilworth and Mr. Chapman.

Q. I call your attention to a man by the name of Urick, who had a station at 185th and Aurora. Do you remember Mr. Urick's first name?

A. Ray, I believe, sir.

Q. Did you service that station?

A. Yes, sir.

Q. Will you tell us your experience in relation to that, with the date, if possible?

A. I think that was about in the latter part of '48 that he had off-brand merchandise in his station, oils, and he was also terminated because of that and the station being dirty.

Q. I will direct your attention to a station operated by [fol. 1770] Harold Pierce at 85th and Greenwood in the city of Seattle, and ask you what experience you had relative to that, and kindly fix the date as nearly as you can.

A. Harold Pierce——

Mr. Paradise: Is that the Harold Pierce who has already testified as a witness here?

Mr. Hall: Yes.

The Witness: My experience with him was handling, I believe it was spark plugs, if I remember right. He had spark plugs other than Champion plugs in the station, and that was just one item. He was in, I think, twice before Mr. Gilworth, and had a conversation about the stock in the station, and which later developed that Mr. Pierce checked out and took the station across the street, a Texaco station.

By Mr. Hall:

Q. What was the Richfield approved brand of spark plugs?

A. Champion plugs.

Q. Do you recall the brand Mr. Pierce was handling?

A. I think it was A-C, I believe A-C plugs.

Q. Now, did you also have an experience with the operator of a station at 95th and 35th Avenue Northeast, run by McFadden & Stowell?

A. Yes, sir.

Q. Will you relate that?

[fol. 1771] A. That was a new station, and this was in the year 1948, I forget the exact date, but I put them in the station. They were employed by Richfield, they worked in the office, and they borrowed the money from Richfield to go in the station. Richfield loaned them the money, it was $2500, with the idea their monthly payments would be—I forget what the payments were—I think they were around $50 a month, and that I would have to check that stock once or twice a month to make sure that it was up. So in doing that, they got down a little below what Richfield thought was a safe investment. I don't think it ever exceeded $150 or $200 below the actual stock investment, but at one time I did find Quaker State motor oil in the station, and I reported it to Mr. Gilworth. Mr. Gilworth reported it, evidently, to Mr. Kirby, who was a division manager, and Mr. Gilworth told me to start looking around for another dealer, that they wanted to get them out because Richfield didn't think they were a safe investment, which at that time I don't think they gave them actually a chance in the station, because they had only been in there—I don't think they had even been in there a year yet. But we did terminate them.

Q. When did you cease your employment with Richfield as a merchandiser?

A. I think it was in June of 1949, I believe, or '48. I can't [fol. 1772] remember correctly.

Q. From your employment as a merchandiser, where did you go?

A. I took over a Richfield station located at 35th and 65th Northeast in Seattle.

Q. How long did you operate that station?

A. About 10 months.

Q. While operating that station, did you ever receive requests from customers for brands of oil or accessories, or tires and batteries, other than Richfield approved?

A. Yes, sir, we did.

Q. Was that once or many times?

A. Oh, quite a few times. We had a lot of credit card customers that would buy gasoline from us, but they would go down the street to a Richfield station located at Union Bay Village, I believe it is, down there, and Sand Point Way, and get MacMillan Ring-Free oil. That was a Richfield station. It was an independent station, independently owned, and I would lose a lot of business to him, especially lubrication business.

Q. While you were operating this station, you were a lessee in it?

A. Yes, sir.

Q. Did you ever have any opportunities to purchase other type batteries or other accessories cheaper or which would [fol. 1773] have a greater margin of profit than those which were approved by Richfield?

A. Yes, sir.

Q. Were those items of comparable value and competitive to the items of Richfield?

A. Yes, sir.

Mr. Hall: You may take the witness.

[fol. 1774] Cross-examination.

By Mr. DeMartini:

Q. Mr. Weston, when you were re-employed in 1946, I understand you were re-employed as a merchandiser, is that correct?

A. That is right.

Q. Is it correct that the duties of a merchandiser were confined strictly to the L-O stations?

A. Yes, sir.

Q. You understand the difference between the L-O station and the 337 and 3-C deals, do you not?

A. Well, I worked only with the L-O units.

Q. You had nothing to do with the others?

A. I had nothing to do with the independents.

Q. You testified that when you had a prospect for a station that you would take him to Mr. Gilworth, is that correct?

A. That is correct.

Q. And who was Mr. Gilworth?

A. He was the Seattle branch manager.

Q. In connection with the investigation as to cash or finances which were required of an operator in order to go into business, was it true that Richfield had a policy of loaning money to prospective service station operators?

A. Yes, but I was instructed on that, that Richfield would want to get away from that if at all possible.

[fol. 1775] Q. But you did secure prospects and install operators to whom Richfield did loan money in the Seattle district?

A. Yes.

Q. When you would take them to Mr. Gilworth would you sit in on the meeting with Mr. Gilworth had with the operator?

A. Yes.

Q. On how many occasions did you sit in with Mr. Gilworth in connection with the discussion with an operator?

A. Oh, I would say two or three hundred times.

Q. Would you say that each of these instances followed a pattern of conversation?

A. Yes.

Q. Would you state exactly what was said by you and the operator and Mr. Gilworth and whoever else was present?

A. Well, Mr. Gilworth, as I said before, would——

Q. No. I want the conversation.

A. Well, I can't remember the conversation word for word.

Q. Well, what would he say? You said before that he stated certain things.

A. He would ask the dealer what he had done before and if he had ever had experience in a service station. And he would point out the Richfield's policy, such as painting the stations at least once a year or washing them, and also tell them about the help that they get from the merchandiser. [fol. 1776] And his job there was just sizing the man up to see if he could qualify as a Richfield dealer.

Q. What else would he say?

A. I imagine that just about covers it actually, as a man would tell the—also tell the man actually how much money he would need to go into a service station.

Q. Did he explain the 24-hour lease that he would be installed under?

A. Yes.

Q. And did he explain the use of the 24-hour termination privilege?

A. Yes. That was stressed on the station maintenance.

Q. What was said with respect to that clause on the use of it?

A. Well, I think he said that—Mr. Gilworth would usually, as I remember, would tell them that if the station was not kept clean and if the equipment was not kept in order, that the Richfield Company could terminate it within 24 hours, or the dealer could, as I remember. I haven't been in contact with them for quite some time.

Q. And he told them at that time about the program of Richfield regarding the merchandising of the station from time to time?

A. Yes.

Q. Now, you say that he impressed upon him that he was [fol. 1777] an independent businessman. What did he say?

A. Well, it is more or less taken for granted that a man leasing a station would be an independent businessman.

Q. So that he did not say anything in that regard, did he?

A. He has several times mentioned to a man that "You are getting a chance now to be an independent businessman."

Q. Did he actually use those words?

A. Yes, at several times he did use those words.

Q. Can you remember any specific occasion when he used those words?

A. Oh, I think probably in just about every dealer that went in, off and on. I can't remember the exact conversation.

Q. How would he tell them that? Give us his exact words.

A. It is kind of hard to do.

Q. What did he say? You have told us he told them he was an independent businessman. In what manner did he tell them?

A. Well, he would more or less try impressing upon their minds the value of taking over a station, over a Richfield station, and also something about "You have a good chance to make a good go of it now. You are an independent businessman. You are in business for yourself and Richfield will give you all the assistance in the world. "That is why we [fol. 1778] have a merchandiser," or something. That is about as close as I can come to it.

Q. At the same time he told them that they had to handle Richfield products and he was subject to being dispossessed on 24 hours notice, didn't he?

A. No, he never mentioned anything about if he handled off-brand merchandise he would be terminated. That was my job.

Q. You told them?

A. That was a merchandiser's job.

Q. You referred to Don Wright, Ray Urick, Mr. Pierce, and McFadden and Stowell. All of those were L-O operators?

A. Yes, sir.

Q. In connection with the station that you had under lease, Mr. Weston, that was at 65th and 35th Northeast, is that correct?

A. Yes, sir.

Q. Do you recall now what rent you paid on that station? I can show you the lease.

A. I think it was a flat fee of $40 a month to start, I forget exactly what it was.

Q. I will show you the lease to refresh your memory.

A. 40.

Q. 40.

A. And a cent a gallon over 4,000.

[fol. 1779] Q. I will show you an amendment to that lease dated March 25, 1949 which specifies that "irrespective of anything to the contrary contained in said lease, rental payable thereunder, commencing the first day of June, 1949, shall be $1.00." What were the circumstances of the execution of that amendment?

A. Well, at that time the road in front, they were putting in a sewer, and also, I think it was—anyway, the road was torn up there for about three months, I believe June, July, August and it ran sometime into September, I believe, where the road was closed. They brought the rent down to a dollar a month during that time, and I believe the gallonage dropped down to about 3,000 gallons a month, somewhere in there. And then about that time they blocked off the other side so I was closed about a week there, unable to get in the station at all, and that is why they dropped the rent down. And then right after that, after this had gone through, they came through with having these full loads of gasoline, putting $1,200 underground.

Mr. DeMartini: That is all. I think you have answered my question. That is all.

The Court: All right.

Mr. Hall: Just one more question.

[fol. 1780] Redirect examination.

By Mr. Hall:

Q. Relative to these loans that Mr. DeMartini spoke about, did those loans, if they were negotiated by Richfield, also include a $50 service charge payable to Richfield?

A. Yes, in some cases I believe that was true. I have never had occasion to get into any loans like that. I believe there was a service charge. I forget what the exact amount was.

The Court: Did you insist on it, did you forego it, or what?

The Witness: Usually you had to pay it.

The Court: I see.

Mr. Hall: That will be all. Thank you, Mr. Weston.

The Court: All right, gentlemen, call your next witness.

Mr. Hall: Mr. Shewbridge.

The Court: You may be excused, sir.

Mr. Hall: Yes. Mr. Shewbridge, will you take the stand, please?

Bernarr Shewbridge, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: What is your name, sir?

The Witness: Bernarr Shewbridge.

[fol. 1781] Direct examination.

By Mr. Hall:

Q. Your present residence?

A. Is in Seattle.

Q. And what is your present employment?

A. I am an electrical contractor.

Q. Were you ever employed by Richfield Oil Corporation?

A. Yes, sir.

Q. As what, in what capacity?

A. As a merchandiser.

Q. Pardon?

A. As a merchandiser.

Q. When?

A. The latter part of '46 through '47.

Q. Will you relate the circumstances relative to your being hired by Richfield?

A. How do you mean that?

Q. Did you apply to Richfield for the position?

A. Yes, I did.

Q. After you returned from the war?

A. That is right.

Q. Did you undergo any training or instructions?

A. Yes. I had a two weeks' school conducted by Dick Weir.

Q. Was this before you entered into your duties as a [fol. 1782] merchandiser?

A. No. I was out in the job for, oh, possibly a month before I went through the school.

Q. Where was this school held?

A. In the Roosevelt Hotel, Seattle.

Q. And about how many were attending that school?

A. Oh, possibly nine or ten.

Q. Of that number about how many were merchandisers?

A. Oh, five or six.

Q. And the others were salesmen?

A. Salesmen.

Q. What instructions or directions were given you at that training school as to the manner in which you should perform your duties as a merchandiser?

A. Not too much in the manner in which we operate as merchandisers. Possibly more on selling, on orientation course of Richfield products, what they were, and so forth.

Q. Where did you receive the bulk, then, of your instructions, relative to your duties as a merchandiser?

A. Through Mr. Gilworth.

Q. And what did he tell you your duties and responsibilities were?

A. To oversee the leased out stations in our territory, check them and see that the dealer was operating properly, assist him in any possible way we can, and that is about all.

[fol. 1783] Q. What did he say relative to what you should do when you were checking in a new dealer or obtaining a new dealer? Did he give you any instructions as about hiring a new dealer?

A. No, not too much. Rather, if we found a new dealer, prospective dealer——

The Court: That is better, because a "new dealer" has a very bad connotation these days. Mr. Fulton Lewis, Jr. would not allow it to be used in the court.

The Witness: Excuse me.

Mr. Hall: I perhaps provoked the term, but there was no political implication, Judge.

The Court: All right.

A. On the prospective dealer we would pick out and bring him to Mr. Gilworth for an interview, and in that way Mr. Gilworth would tell us whether he was suitable or not.

By Mr. Hall:

Q. Did you sit in at those interviews?

A. Yes. Yes, sir.

Q. What did Mr. Gilworth tell the prospective dealer?

A. Oh, he would tell him what Richfield might expect of him and what the reason that, if there was any particular station involved that he was interested in and we were thinking of making a change, well, he would talk mostly about that station, what its possibilities were, why it was falling down now, if it were, and things of that nature. [fol. 1784] Q. And what did he say relative to what Richfield expected of this prospective dealer?

A. Well, hours. The chances are that they would want that station kept open longer.

Q. When you say "they" whom do you mean?

A. Pardon?

Q. When you say "they" would want the station kept open, who do you mean?

A. Richfield.

Q. Richfield. Now, did you finish your answer?

A. I think so.

Q. What was said relative to the products that he was to handle?

A. Well, it more or less, to my knowledge, was an understanding. It was more or less unwritten that he was to handle Richfield products. I mean I have never run into a case where anyone in a service station would not figure that they had to put in the gasoline that they were leasing the station from.

Q. Did you ever tell any of these prospective dealers or dealers who were signed up what they should handle and what they should not handle?

A. Yes.

Q. What did you tell them they should handle?

A. Richfield products and approved merchandise, and it [fol. 1785] was through the explanation that there was a lot of advertising connected with these different items and Richfield advertised them and they were nationally advertised, and they could be carried on the credit card, etc., and in that manner it would be to his advantage that these items be carried in the station.

Q. What did you tell them relative to the items which they could not carry?

A. That they were not approved by Richfield and they were not to be kept in the station.

Q. Did you tell them what would happen in case they did keep them?

A. Well, usually not to a prospective dealer, not to get too harsh right away with him.

Q. Did your duties require that you supervise or police these stations?

A. Yes.

Q. Regularly?

A. Yes.

Q. About how often?

A. About once a week you would call on a station.

Q. What were you- duties and responsibilities in relation to checking on the products that were being sold or handled in that station?

A. Well, it is usually pretty easy to see what he is handling.

[fol. 1786] Q. Well, what did you do? Just tell us. We want to know what you did.

A. Go in and look his stock over. It is usually all on display. And if there are any items that were not approved by Richfield, I would call him over to one side and tell him that he would have to get rid of them. We didn't want them in the station.

Q. Was there anything else that you told him that he would have to do with regard to those?

A. In regard to those items?

Q. Yes.

A. No, I don't believe so.

Q. If he refused to get rid of them or continued to carry them, what would you do?

A. Usually, if I didn't do it myself, I would get instructions from Mr. Gilworth to change dealers.

Q. Did you ever find that any of these dealers hid any of their unapproved merchandise in the stations?

A. Oh, yes. If you wanted to snoop, you could probably find it in the greater majority of stations.

Q. What instructions did you receive relative to the manner in which you should check out an old dealer?

A. The same as Mr. Weston. We would get the signature of the outgoing dealer on his termination paper first and then proceed with the check-out and in.

[fol. 1787] Q. Did you ever tell the old dealer anything about what he could expect relative to the incoming dealer purchasing his items of stock, merchandise or equipment?

A. No, not to any great extent. It would come up sometimes. Dealers at the time they went in were usually told that the off-brand merchandise that they carry would not have to be purchased by the new dealer—excuse me, Judge—the prospective dealer when he would come in, so that at the time he was leaving the station he would know that the dealer replacing him would not have to buy all his merchandise. Did you follow me there?

Q. I followed you. Calling your attention to a service station at Summitt and Olive Way in Seattle which was operated by Bob Rutledge, will you state whether or not you ever had any experience in relation to products that he was handling?

A. Yes.

Q. When was this, do you recall?

A. Probably the early part of '47.

Q. Now, will you relate the circumstances?

A. Yes. Bob had a good customer who wanted Pennzoil in his car and had driven the car—oh, approximately 90,000 miles and used nothing but Pennzoil and was really sold on it. So Bob kept Pennzoil for him hidden away in a cupboard back in the lube room. I didn't find it. Bob told me about it, that he had the oil there. And I mentioned [fol. 1788] it to Mr. Gilworth and explained the circumstances through which Bob was carrying this oil, and Mr. Gilworth said that Bob and myself were to try to convince this customer and sell him on the idea of either Richfield Penn or Richlube, and if we could not sell him on it, that Bob was to let the customer go.

Q. Was there anything further transpired in relation to that incident?

A. I relayed the information to Bob and, as far as I

was concerned, the subject was ended. I think he kept the customer. I don't know what he did about the oil.

Q. Calling your attention to Bert Lynch——

The Court: You are of a very understanding nature.

The Witness: That is why I haven't got the job, either, Judge.

By Mr. Hall:

Q. Calling your attention to a service station at 214 West Mercer Street in Seattle, Washington, operated by Bert Lynch, will you state what happened in regard to that station, from your experience?

A. Yes. Mr. Gilworth would pass by Bert's station every morning on his way to work and would stop in there usually for his gas and his oil. And, of course, on our morning meetings—well, I would be sitting there under the gun and he would ask me what took place at Bert's and whether he was carrying any off-brand merchandise, etc. He knew his hours pretty well, so that was not brought up too often, [fol. 1789] but it was on the off-brand merchandise. He evidently found some MacMillan Ring-Free Oil there himself, Mr. Gilworth had, or seen the empty cans there at one time or another. He asked me to go check and see if he still had it and under what circumstances he was having it.

Q. What did you do after you got those instructions?

A. I told Bert about it. Bert knew that he was not to keep it. It was not a matter of ignorance on his part. He told me why he was keeping it. He had a good customer that wanted MacMillan Ring-Free Oil and he was keeping it for him, only had two cases on hand, I believe. Mr. Gilworth instructed me to tell Bert to get rid of it or we would check him out.

[fol. 1790] Q. Do you know whether or not he got rid of it?

A. I think he found——

Q. First, did you communicate that information to Mr. Lynch?

A. Yes, sir.

Q. Do you know whether or not he got rid of the MacMillan oil?

A. He moved his hiding place.

Q. Will you tell us what your experience was relative to the insecticide drive that Richfield conducted?

A. That was a sad case with me, that insecticide.

Q. When was it?

A. I believe it was in December, 1947, I think, or the spring.

Q. What were your instructions as to merchandising this insecticide?

A. To see that all dealers had insecticide on their shelf.

The Court: Oh, you didn't think you needed insecticide up in Seattle?

The Witness: That was my contention, Judge.

The Court: On the Pacific Coast they do not have screens on their windows and doors, and that is true in Seattle and Tacoma. I had better give them that compliment, they do not have screens on their windows or doors because [fol. 1791] insects are too scarce.

Mr. Hall: They get waterlogged, I believe.

The Court: I don't know why, but they don't need them there.

Mr. Hall: That is all, Mr. Shewbridge. Your witness.

Cross-examination.

By Mr. DeMartini:

Q. Mr. Shewbridge, as a merchandiser your activities dealt solely with the L-Os?

A. Yes, sir.

Q. You had nothing to do with the accounts which we refer to as the accounts with dealers written on the 337 or 3-C papers?

A. No.

Q. Do you know what employee handled or sold to that type of account?

A. Salesmen handled those accounts. They were what we called independent accounts.

Q. You referred to the Lynch station, and I don't believe you gave the last name of Bob.

A. Rutledge, E. W. Rutledge.

Q. Both of those were L-O stations, were they not?

A. Yes, sir.

Mr. DeMartini: I think that is all.

[fol. 1792] Mr. Hall: That is all. Thank you, Mr. Shewbridge.

The Court: Step down.

(Witness excused.)

The Court: Call your next witness.

Mr. Hall: Mr. Pitts.

Raymond B. Pitts, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination.

The Clerk: What is your name, please?

The Witness: Raymond B. Pitts,

The Clerk: P-i-t-t-s?

The Witness: Yes.

By Mr. Hall:

Q. What is your present residence, Mr. Pitts?

A. Tacoma, Washington.

Q. I didn't hear you.

A. Tacoma, Washington.

Q. Tacoma, Washington?

A. Yes, sir.

Q. Were you formerly in business or had a business relationship with the Richfield Oil Corporation?

A. Yes, sir.

[fol. 1793] Q. What was that business relationship?

A. It was a TBA relationship.

Q. A TBA distributor?

A. Yes, sir.

Q. Were you alone or in partnership?

A. No; with Mr. J. A. Westlake.

Q. When did you first become associated with Richfield in this enterprise?

A. April 1, 1944.

Q. Will you state the circumstances relative to your doing business with Richfield?

Mr. Paradise: Will you also speak a little louder, Mr. Pitts? We have difficulty in hearing you.

The Witness: Yes, sir. I will.

Why, I had known Mr. Westlake for several years, and for a few years prior to this I had been working for the government. So he asked me to go in business with him on this TBA set-up, and that was how I happened to go in with him.

By Mr. Hall:

Q. Now, whom did you meet with in the Richfield Oil Corporation?

A. Well, I only had one meeting before going into business at the Richfield Oil home office building at Seattle, and [fol. 1794] I believe that was in March, sometime right around the 1st of March, 1944, and I met Mr. Kirby at the time, and I met Mr. J. T. Foster, I believe the initials are, and that is the only two gentlemen I remember. Mr. Foster was the man we talked to most of the time about arrangements with the TBA set-up.

Q. Was there any written agreement entered into between you and Mr. Westlake and the Richfield Oil Corporation relative to this TBA distributorship?

A. No. sir.

Q. Will you please tell us what statements Mr. Foster, or any other representative of Richfield, made to you on this day when you made the deal?

A. Well, I can't tell the exact words, sir, but we were to handle Richfield products, certified products, and that was during the war, things were pretty rough, and the contracts which Richfield had with their various suppliers, that material was to be turned over to us to distribute to the Richfield stations, and we were to establish routes and contact these stations at least once a week after we got started. We was to buy a truck and contact these stations in, roughly, the city of Seattle at that time, which was the territory that we were to have at that time.

Q. Will you tell me what arguments or persuasion Mr. Foster used to influence you to go into this business?

Mr. DeMartini: I will object to that as calling for a [fol. 1795] conclusion, your Honor.

By Mr. Hall:

Q. What statement or promises——

The Court: What did he say?

By Mr. Hall:

Q. What did he say?

A. I would say that it was more Mr. Westlake that got me into the business than it was Mr. Foster. Mr. Foster didn't influence me in any way, sir.

Q. Did he make any statements to you that day as to why you should——

A. No, except that he said it would be a good business proposition, because the Richfield stations were increasing at all times, and that their TBA distributors' business should increase in proportion to the increase in stations and gasoline sales, as well as sales of accessories and supplies.

Q. Were there any statements made to you as to the type of items, goods, tires, batteries, et cetera, which you could handle or could not handle?

A. Yes, sir.

Q. What did he say?

A. We were to handle Richfield certified products, their line of certified products.

Q. Was there anything said as to what you should not handle?

A. No. The statement was only that.

[fol. 1796] Q. Did you at any time while you were operating this business with Mr. Westlake carry any items that were not approved items?

A. Yes, sir, I did.

Q. Did you run into any trouble with any of the Richfield officials because of that?

Mr. Paradise: That calls for a conclusion. We would prefer to have the conversations.

The Court: That merely directs his attention. He said, "Trouble." He means "difficulty." You may answer "Yes" or "No."

The Witness: Yes.

By Mr. Hall:

Q. Did you have any conversations with any Richfield official?

A. Yes, I did.

Q. Will you state the circumstances?

A. Well, this happened about around October—September or October, 1945. I had bought some Wynn oil. Various dealers asked me if I would buy some Wynn oil for them, and one dealer had a 10-gallon can sitting in his service station, and Mr. Foster come up, and he was rather perturbed, and he told me, he says, "Even if you are working on your own money, I'll get you for this yet." And that was the only trouble or the only time that he had anything to say.

[fol. 1797] Q. Is that the only incident in which you ever carried any items that were not Richfield approved?

A. Yes, sir.

Q. That was?

A. That was the only time I had any conversation with a Richfield supervisor or district manager concerning any items.

Q. And this was what time?

A. It was either in September or October, 1945.

Q. When was your relationship with Mr. Westlake and with Richfield severed?

A. January 1, 1946.

Q. Was that voluntary on your part?

A. Yes. Mr. ——

Q. Did you initiate the severance?

A. No, sir. Mr. Westlake was at a meeting down at the Richfield Oil Company, and he come back and told me that Richfield was not satisfied with my merchandising, and I told Mr. Westlake, all right, I would sell my partnership to him, so that he could go on, and I didn't contact Richfield at all.

Q. Will you tell us what your general procedure was when a change of service station operators was being made?

A. Well, usually the station representative would call us and tell us that they were putting in a new man.

[fol. 1798] Q. What do you mean by "station representative"? The operator of the station?

A. No, no, the Richfield—what do they call them—the man that went around and overseen all the stations for Richfield?

Q. The merchandiser?

A. Yes, the Richfield merchandiser would call us and tell us there was a new man to be put in the station, and to meet the new man down there at the time, and see what supplies he needed. And in many instances we even went down and priced the articles for the dealer that was leaving the station, because in many instances he didn't have his cost price on the articles, and he didn't know exactly what his material was worth.

The Court: That is for the approved items?

The Witness: Yes, sir. That's the only thing we touched, sir, the approved items.

By Mr. Hall:

Q. Now, in this period of almost two years in which you operated this TBA distributorship, was there any distinction made in your sales as between any of the Richfield stations?

A. No, sir. No, sir.

Q. You sold all Richfield stations indiscriminately?

A. Yes. I didn't know which station was an L-O, and so forth, and so forth. It didn't make any difference. We [fol. 1799] were to service all the Richfield service stations in the city of Seattle that we could possibly reach.

Mr. Hall: That is all. Your witness.

Cross-examination.

By Mr. DeMartini:

Q. During the period that you were in business with Mr. Westlake, Mr. Pitts, I understood you to say that this type of product was short; is that correct?

A. I didn't understand, sir.

Q. This type of product was short, was hard to get?

A. All types of products were hard to get at that time, during the war. We couldn't get enough to supply the stations.

Q. Were these products allocated at all by Richfield?

A. May I clarify that? Do you mean were they allocated to us, or to the various Richfield stations?

Q. To the Richfield stations.

A. No, sir. Richfield shipped their Champion spark plugs, —for instance, they had the contract on their spark plugs come to us, and we tried to see that all their stations had a few spark plugs. In other words, we didn't try to let some of the big stations have all the plugs over some of the smaller stations. We tried to give all the boys some of the stuff as we went along.

[fol. 1800] Q. You didn't have any difficulty in selling these items?

A. No, sir. It was a buyer's market at that time.

Mr. DeMartini: That is all.

Mr. Hall: That is all, Mr. Pitts.

The Court: Step down.

(Witness excused.)

The Court: Call your next witness. The population of Seattle must be decreasing while this case is going on.

Mr. Hall: I believe it is being rapidly replenished, however, your Honor.

Mr. Greer: Mr. Guy Lenton.

Guy Robert Lenton, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination.

The Clerk: What is your name, please?

The Witness: Guy Robert Lenton.

The Clerk: The spelling of the last name, please?

The Witness: L-e-n-t-o-n.

By Mr. Greer:

Q. Where do you live, Mr. Lenton?

A. 6115 North Interstate Avenue, Portland. Oregon.

[fol. 1801] Q. What is your occupation, sir?

A. Service station operator.

Q. Have you ever in the past leased a Richfield service station outlet?

A. I have.

Q. When did you last do so, sir?

A. In the spring of '49.

Q. Where was that station?

A. 4871 North Lombard. I believe that's the exact address.

Q. Can you recall the name ot the Richfield supervisor who installed you in that station?

A. Holden.

Mr. Paradise: What was that name?

The Witness: Dave Holden.

By Mr. Greer:

Q. How do you spell that name?

A. H-o-l-d-e-n, I guess.

Q. That was in the spring of '49?

A. That's right.

Q. Have you ever operated a Richfield service station prior to that time?

A. Yes, sir.

Q. Was that also a leased out station?

A. Yes, sir.

Q. When was that?

[fol. 1802] A. Oh, that was about '45 or '46.

Q. Was this second station that you took over, Mr. Lenton, a new station or had someone else already been in it?

A. This was a new station.

Q. How large an investment were you required to make in order to lease it?

A. Approximately $3500.

Q. Were any instructions given to you at the time you went into it as to what products you would handle?

A. No, not when I first went in.

Q. Were any instructions given to you subsequently?

A. After I went in, yes. A few days afterward I was told not to handle anything but Richfield products.

Q. Who told you that?

A. The merchandiser.

Q. Mr. Holden?
A. Mr. Holden.
Q. Where did he tell you that?
A. In the station.
Q. Did you ever handle any merchandise other than Richfield products?
A. I did.
Q. Tell the court what you did handle?
A. Well, I handled Quaker State oil, A-C spark plugs and Fram filters.
[fol. 1803] Q. Are they approved Richfield products?
A. No, sir.
Q. From whom did you purchase the Quaker State oil?
A. Christensen Oil Company.
Q. From whom?
A. The Christensen Oil Company.
Q. What agent of that oil company did you deal with?
A. Mr. Turner.
Q. I want you to tell the court whether or not that Quaker State oil was delivered by the normal means that that oil company delivered its oil.
A. No. I would call Mr. Turner personally and he would deliver it in his own car, because if they delivered in a truck and some official come along, why, that would be too bad.
Q. Are you acquainted with the normal practices of oil companies in delivering packaged oil, Mr. Lenton?
A. Well, they deliver, most of them, with their own trucks. Is that what you mean?
Q. Is it customary for these companies to deliver their oil by truck?
A. Absolutely.
Q. Was it the normal procedure for the man who sold you the oil to deliver it himself in his own car?
A. No, sir.

[fol. 1804] The Court: Did you suggest that he deliver it in his car, or did he?
The Witness: No, I suggested it.
The Court: You suggested it?
The Witness: Because if they delivered it in the truck

and somebody would go by and see that truck there, why,——

The Court: You have already told us the reason, but you didn't tell us whether it was your idea or whether he suggested it.

The Witness: It was my idea.

The Court: Your idea. All right.

By Mr. Greer:

Q. Did you ever have any conversation with Mr. Holden, or any other Richfield supervisor, about that Quaker State oil?

A. Well, he told me I shouldn't handle Quaker State oil.

Q. What did you tell him?

A. Well, I told him I had customers that used Quaker State oil, or people would come in and ask for Quaker State oil, and that I was in business, and that I would like to sell it.

Q. Do you recall what his reply was?

A. He said to keep it out of the station, to not have any in there at all.

Mr. Greer: The witness is with you.

[fol. 1805] Cross-examination.

The Court: Who is going to carry the laboring oar? You gentlemen shift so fast, and the government does, too, so when I don't look up I realize I am listening to a different voice.

Mr. Dixon: A little variety, Judge.

The Court: Yes, with four of you, and two of them.

By Mr. Paradise:

Q. Mr. Lenton, which of these two Richfield L-O stations that you mentioned was the one where you made the $3500 investment?

A. The 4871 North Lombard. That was the new station.

Q. That was the new station?

A. Yes, sir.

Q. Mr. Lenton, I will show you a service station lease, dated April 22, 1949, on Richfield's printed form No. 542,

with print date of 8-46, and ask you if that is the lease which you signed covering the station that you have just described.

A. This—yes, I signed that lease, but that is the second lease I had on the station.

Q. Now, the original lease provides for a rent, does it not, a minimum rent of $50, plus an additional rent of one cent per gallon on each gallon in excess of 5,000 gallons?

A. Yes, sir.

[fol. 1806] Q. Then I will also call your attention to a rental amendment, which is attached to this lease, on Form No. 542-E, which is dated June 7, 1949, and ask you if you also signed that.

A. Yes, sir.

Q. Is it correct that this calls for a revised rental of $30 a month, with a gallonage rental of one cent per gallon in excess of 3,000 gallons?

A. It is.

Q. Now, attached to the original lease are several pages on forms No. 542-B, 542-C, and 542-D, which contains a description of various items of equipment. I will ask you this: Is it not true that these are the items belonging to Richfield, and that this is an inventory of the items of equipment which were on the station at the time you went in.

A. (Examining documents) Right.

Q. Now, the $3500 investment that you mentioned, what did that consist of?

A. Gasoline, oil, and accessories.

Q. It didn't cover any of the items listed on any of these schedules?

A. No, sir.

Q. Now, you mentioned that during the time you occupied this station, you handled A-C spark plugs; is that correct?

[fol. 1807] A. Yes, sir.

Q. And Fram filters?

A. Yes, sir.

Q. And also Quaker State oil?

A. Yes, sir.

Q. Those, you also mentioned, were not approved by Richfield——

A. That's right.

Q. —for credit card purposes?

A. That's right.

Q. Did you ever sell any of those on Richfield credit cards?

A. No, sir, I never did.

Q. Now, when did you leave that station on Lombard?

A. It was about three months.

Q. Pardon me?

A. About three months. I don't remember just the date.

Q. About three months later, after you moved in?

A. Yes.

Q. At the time you moved out, did you make a sale to a Mr. Siegfried Hanson of certain of your inventory of petroleum products, and TBA, and equipment?

A. Yes, sir.

Q. Who is Mr. Hanson?

[fol. 1808] A. Mr. Hanson? Who was he?

Q. Maybe I can clarify it and simplify it. Mr. Hanson was your successor as the operator of that station,——

A. That's right.

Q. —is that correct?

A. That's right.

Mr. Paradise: May I have this marked for identification, please?

The Clerk: Defendant's Exhibit G, marked for identification.

(The document referred to was marked Defendant's Exhibit G, for identification.)

By Mr. Paradise:

Q. Mr. Lenton, I will show you Defendant's Exhibit G, for identification, the first page of which is entitled "Stock Inventory," the second page of which bears the title "TBA and Service Items," the third and fourth pages bearing that same title, and the fifth and sixth pages of which bear the title "Equipment Inventory," and ask you if this is your signature.

A. This (indicating)? Yes, sir.
Q. On the last page?
A. Yes, sir.
Q. What does that instrument represent, Mr. Lenton?
A. What does what?
Q. How was this used? Do you recall the circumstances [fol. 1809] under which you signed that?
A. You mean, what is it the sale of?
Q. Yes.
A. The sale of all of this?
Q. Yes.
A. Why, sure, I sold it to him.
Q. This covers the items which were sold by you to Mr. Hanson——
A. That's right.
Q. —that we have just been talking about?
A. That's right.
Q. Now, calling your attention to the last two pages, both of which are entitled, "Equipment Inventory," there are several columns there, the first column bears the title, "Item," the second "Price," the third, "Depreciation," and the fourth, "Extension." Do you have any knowledge of how these depreciation items were figured at the time this schedule was made up?
A. No, I don't.
Q. You didn't participate in that?
A. No, sir.

Mr. Paradise: I see. That is all.
The Court: Any redirect?
Mr. Greer: Yes, your Honor.
Mr. Paradise: May we offer this in evidence?
[fol. 1810] The Court: It may be received.
The Clerk: Defendant's Exhibit G in evidence.

(The document, heretofore marked Defendant's Exhibit G, for identification, was received in evidence.

The Court: How did your successor come to your place?
The Witness: Well, he was looking for a station, and somebody sent him, I don't know who it was, and he came up to see me.

The Court: None of the Richfield merchandisers called you?

The Witness: No, they didn't. I had to call the Richfield merchandiser and tell him I had a buyer.

The Court: All right.

Redirect examination.

By Mr. Greer:

Q. Mr. Lenton, a question was asked you on cross-examination as to whether you ever put any of these products, A-C spark plugs, or Fram filters, or Quaker State oil, on the credit cards, and I will ask you whether or not these items were approved either for credit cards or for your handling in any way?

A. No, absolutely not.

Q. Were you permitted to handle them in any way at all?

A. No, sir.

[fol. 1811] Q. Where did you keep your A-C spark plugs?

A. I had a cabinet on the wall I kept locked up.

Q. Where did you keep your Fram filters?

A. Back of the compressor.

Q. Where did you keep your Quaker State oil?

A. In the back of my car.

Q. In the back of the car?

A. Yes, locked up in the back of the car, in the trunk of the car.

The Court: Some of you boys would have qualified as bootleggers, if it had not been for the fact that Seattle was comparatively a law-abiding city during prohibition.

Are you finished?

Mr. Greer: Yes, sir. We are through.

The Court: This is a good time to take a recess.

(A short recess was taken.)

[fol. 1812] Mr. Greer: I pray the indulgence of the court for just one moment, your Honor. The witness did not come back from recess.

KENNETH MILLER, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: State your name, please.
The Witness: Kenneth Miller.

Direct examination.

By Mr. Greer:

Q. What is your name, sir?
A. Kenneth Miller.
Q. Where do you live, Mr. Miller?
A. Sherwood, Oregon.
Q. What is your occupation now?
A. Farmer.
Q. Were you ever connected in any way with the defendant Richfield Oil Corporation?
A. Yes, sir.
Q. When were you connected with it?
A. In 1944-1946.
Q. What was the nature of your connection?
A. I was a merchandiser.
Q. Where did you perform your duties then?
A. In the City of Portland.
[fol. 1813] Q. Who instructed you as to the nature of the duties you were to perform when you were first hired by Richfield?
A. Mr. E. J. Bradford.
Q. What was the title of the position that he held?
A. He was the branch manager.
Q. Was he the only branch manager while you were with Richfield?
A. No, sir.
Q. What were the names of the others?
A. There was a Mr. Cresswell.
Q. How long did you work under the supervision of Mr. Bradford?
A. About 18 months.
Q. And did you work the remainder of your tenure with the company with Mr. Cresswell?
A. Yes, sir.
Q. How many stations did you oversee?

A. Approximately 15.

Q. Were they all the type known as leased out stations?

A. Yes, sir.

Q. Where were they in Portland?

A. They were west side stations and a few close in east side in order to make up. The city was divided into three areas and there were not 15 stations on the west side of Portland, so I had the ones on Union Avenue and [fol. 1814] close in on the east side.

Q. Did you have any discussions——

The Court: Sherwood is on the outskirts of Portland?

The Witness: Sherwood is about 17 miles out of Portland.

The Court: In which direction?

The Witness: West.

The Court: In the County of Washington?

The Witness: Washington County.

By Mr. Greer:

Q. Did you have any discussions or conversations with Mr. Bradford about how you were to do your job when you were hired?

A. Yes, sir.

Q. Would you tell the court what the nature of those discussions were?

A. Well, Mr. Bradford—well, the boys, one of the fellows that worked for Richfield, I knew him and I went there to get a job as—to get a service station, and through him I fairly well knew what the duties were due to the fact that he was a merchandiser. But Mr. Bradford gave me further instructions in the respect that he told me what the specific duties were such as TBA program, was fairly well new, but was in force, and that they had him back there to tell us what products were TBA approved products and that we were not to have anything but TBA approved products in the service stations, and that was to be enforced 100 per [fol. 1815] cent, as well as other duties such as cleanliness in the service station, the hours the service station operators were to keep and days of the week that they were to be closed.

Q. Were any instructions given you about oils as well as TBA?

A. Yes, sir. There were not to be any off-brand oils in any service station.

Q. What was an off-brand oil?

A. Anything that was not Richfield oil, except Sinclair which was Richfield Pennsylvania.

Q. Did you have regular meetings with Mr. Bradford?

A. Every morning, sir.

Q. What would be discussed at those meetings?

A. The business of the day. There would be letters from Seattle from Mr. Kirby or Mr. Foster, who was head of the TBA, and perhaps there would be a little—maybe we had a service station that had a little off-brand merchandise that was called to our attention through one source or another, through the TBA distributor or perhaps one of the higher officials had stopped in at his station, or maybe a service station was not quite up to snuff, the lights were not lit or something.

Q. Was it ever called to your attention at one of those meetings that one of those service stations under your [fol. 1816] supervision was handling off-brand products?

A. Yes, sir.

Q. On such occasions what instructions did you receive?

A. I was told that the off-brand merchandise was to be removed from the station.

Q. Did you carry out those instructions?

A. I instructed the man that the off-brand merchandise was to be removed, but in most cases it was not. It was hidden under the counter or tried to be sold through the station.

Q. Did a man named Fred Erz operate one of the leased out stations under your supervision?

A. Yes, sir.

Q. Where was that station?

A. That was on Northeast Union. I can't recall the number. I believe it is 630, however.

Q. Did that operator ever handle any off-brand merchandise?

A. The deal that came up there was not necessarily off-brand merchandise. It was the fact that Fred Erz had a contact with Goodyear Tire & Rubber Co. because of the

vast quantity of merchandise he sold before the TBA program went in effect.

Q. No. Were Goodyear tires an authorized TBA product?

A. Yes, sir.

Q. Were the service station operators under your supervision supposed to buy Goodyear tires to sell to their [fol. 1817] customers?

A. Yes, sir, and they were to buy them from our TBA distributor.

Q. And who was he?

A. Mr. Ed Radke at that time.

Q. Had Mr. Erz been buying Goodyear tires from Mr. Radke?

A. No. He had been buying from Goodyear Tire & Rubber direct.

Q. Had he been buying the same type of tires that were on the TBA program?

A. Identical merchandise.

Q. But he did not buy them from Richfield approved TBA distributor?

A. No, because he had a contract, that is, he had a contact. He could buy them for the same price as our distributor was buying them and it cost him more money to buy from our TBA distributor.

Mr. Paradise: Have you fixed the time of this inquiry, counsel?

By Mr. Greer:

Q. When was this?

A. Early in 1946. Well, it was several times while I was with the company, with both branch managers we had this come up, and we called on Mr. Fred Erz, both Mr. [fol. 1818] Bradford and myself, and Mr. Cresswell and myself, and he was told that he had to play ball with us or else he knew, and he played ball with us, at least enough to satisfy the company.

Q. Could he purchase Goodyear tires cheaper through his own sources than he could through the TBA program?

A. Yes, sir.

Q. You and Mr. Bradford called on him?

A. Yes.

Q. And did he subsequently comply with the TBA program?

A. He did enough to satisfy, I believe, Mr. Bradford and Mr. Cresswell, both, at a later date.

Q. Did you have an operator by the name of Ray Giles?

A. Yes, sir.

Q. Where was his station at that time?

A. It was on Northeast Seventh, just off of Belmont Street.

Q. Was that a leased out station?

A. Yes, sir.

Q. Was any difficulty experienced with Mr. Giles with reference to handling off-brand products?

A. Yes, sir.

Q. What was that difficulty?

A. Off-brand tires, off-brand accessories, off-brand oil.

Q. Where did Mr. Giles purchase his tires and batteries?

[fol. 1819] A. I couldn't say where he purchased them, but he had a contact similar to what Fred Erz did, although his tires were not Richfield approved tires that he would buy, nor Richfield approved batteries nor accessories nor Richfield approved oil.

Q. Were any instructions given to you about the future handling of off-brand merchandise at that station?

A. Yes, sir.

Q. What were those instructions?

A. That he had to buy his tires and batteries and accessories from Mr. Ed Radke, and that there was not to be any off-brand oil. However, I took it on my own shoulders. In that case he had Bradley Pie Co. doing business there and he had all of their gasoline business as well as lubrication.

Q. Did they have a fleet of trucks, panel trucks?

A. He had two fleets of trucks. I can't recall the other fleet. Neither one of them wanted Richfield's oils. One of them used Quaker State and the other one MacMillan Ring-Free Oil. And I gave him more or less a go-ahead on my own, rather than lose the account for gasoline and lubrication, to contact the Bradley Pie Company and ask them to buy the oil, leave it set in the back room, and it

was not to be sold to any other cars that came into the station. That was on my own. That was not company approved.

[fol. 1820] Mr. Greer: That is all, your witness.

The Court: All right, Mr. DeMartini.

Cross-examination.

By Mr. DeMartini:

Q. As a merchandiser, Mr. Miller, you dealt only with L-O forms, is that correct?

A. Yes, sir.

Q. You had nothing to do with the dealer to whom Richfield sold products under the sales contracts 3-C?

A. None whatsoever.

Q. Or the 337 contract?

A. I am not familiar with any of those contracts.

Q. Mr. Erz and Mr. Giles were both L-O operatores, were they not?

A. Yes, sir.

Q. With reference to Bradley, speaking of Mr. Giles, you said that the account would be lost if it were not given the privilege or the opportunity, rather, of buying Pennzoil or Quaker State oil?

A. Yes, sir.

Q. What account are you referring to?

A. To the Bradley Pie Company of Portland, sir.

Q. And they were an account of his?

A. Of Ray Giles, carried on the books, yes, sir.

Q. And you then took it upon yourself to give him [fol. 1821] consent to buy those?

A. Yes, sir, merely to the disadvantage of our gallonage at that station had we lost the oil account.

Q. In other words, if it were not with your consent, he could not have purchased it?

A. No, sir. In other words, the company policy would have been to throw the man out the window.

Mr. DeMartini: That is all.

Mr. Greer: Stand aside.

Mr. Somerville: The Government calls as its next witness James Moore.

JAMES MOORE, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: What is your name?

The Witness: James Moore.

Mr. Somerville: Counsel, would you furnish me with the documents called for under the second subpoena, part 1?

Mr. Paradise: Yes, we have all the contracts. Do you want them in any particular order, any order of date?

Mr. Somerville: May I examine them, if you please?

Direct examination.

By Mr. Somerville:

Q. What is your name, sir?

A. James Moore.

Q. And where is your residence, Mr. Moore?

[fol. 1822] A. Medford, Oregon.

Q. What business are you in?

A. I am branch manager for Sherwin-Williams paints.

Q. Do you operate a station handling Richfield brands of gasoline?

A. Yes, sir.

Q. Where is that station located, sir?

A. 56 North Riverside, Medford.

Q. Medford, Oregon?

A. Oregon.

Q. Could you tell us approximately when you began operating the service station there?

A. In August, 1943.

Q. August, 1943. Could you tell us who did you contact with respect to this particular station, who in Richfield?

A. Their distributor.

Q. What was his name?

A. George Field.

Q. I hand you a contract entitled "3-C Operator's Sales Contract, Form 783, Print Date 9-45," I think it is. Can you see that?

A. It looks like it.

Q. Between Richfield Oil Corporation as seller and James Moore as buyer, and a document entitled "3-C Operator's Lease, Form 668, Print Date 11-45" dated December 7, 1945,

[fol. 1823] and ask you if those were the agreements that you entered into?

A. That is right.

Mr. Somerville: May it be stipulated, counsel, that the 3-C operator's lease produced by you is the same as Government's Exhibit 4-A, it is written on the same form, and that the term specified therein commences the first day of October 1945 and ends the 30th day of March, 1951?

Mr. Paradise: What is the print date of the form, Mr. Somerville?

Mr. Somerville: The print date is 11-45.

Mr. Paradise: I understand that that is the same as Government's Exhibit 4-A. That is also attached as Defendant's Exhibit A.

Mr. Somerville: And that in paragraph 11 it is specified that "this lease is subject to all the terms, provisions, and conditions contained in that certain lease dated the 7th day of December, 1945, by and between George W. Field, as lessor, and Richfield Oil Corporation, as lessee." Is that so stipulated?

Mr. Paradise: All right. Are you reading from the lease?

Mr. Somerville: Yes.

Mr. Paradise: If you are, I will stipulate it, yes.

Mr. Somerville: And that the 3-C operator's sales contract on form 783—the print date there is a little illegible—[fol. 1824] form 783 is the same as Government's Exhibit 4-B?

Mr. Paradise: If this is the same print date, which I can't read, I will agree that it was on the same form.

Mr. Somerville: And that said contract specifies that the terms shall be October 1st, 1945 to March 30, 1951, and specifying that the seller shall sell and buyer shall buy buyer's entire requirements, and under "minimum quantity"—gallons, 10,000 gallons, lubricating oils 350 gallons, and greases 175 pounds.

Mr. Paradise: Yes, if that is what the agreement says.

[fol. 1825] Mr. Somerville: And at the bottom of this contract is typewritten in the following:

> "In the event of any termination of that certain Operator's Lease executed concurrently herewith by

and between the parties hereto this Operator's Sales Contract shall automatically terminate without notice or action on the part of either party hereto."

Mr. Paradise: I will stipulate that was typed on the form as an additional provision, yes.

By Mr. Somerville:

Q. Mr. Moore, with reference to these particular agreements, do you know who owned this property?

A. Yes, Mr. Merrick.

Q. Do you know, of your own knowledge, whether Mr. Merrick leased to any other party?

A. He leased to Mr. Field.

Q. And this 3-C operator's lease is subject to that lease between Richfield and Mr. Field?

A. That's right.

Q. Who was Mr. Field, with reference to his position or his capacity as an agent or representative of the Richfield Oil Corporation?

A. He was local distributor at that time.

Q. Was he a bulk plant man?

[fol. 1826] A. I don't know whether you call it bulk plant or not, but he was the man I did business with, as a commission agent, I presume.

Q. Whom did you talk with, or who negotiated these papers with you?

A. Mr. Field.

Mr. Paradise: Which papers?

Mr. Somerville: These 3-C operator's sales contract and the 3-C operator's lease.

Mr. Paradise: Are you talking about the one dated in 1945?

Mr. Somerville: Dated in 1945, yes, sir.

The Witness: Mr. Field.

By Mr. Somerville:

Q. What was your arrangement with Mr. Field concerning entering into these agreements?

Mr. Paradise: I submit that calls for the conclusion of the witness, and is ambiguous.

Mr. Somerville: I will reframe my question, counsel.

By Mr. Somerville:

Q. In connection with these contracts, was anything said at the time that you entered into the station under these contracts with reference to the products which you should handle or sell?

A. No.

Q. Was anything said subsequently with respect to your handling TBA products?

[fol. 1827] A. Not at that time.

Q. At any later date were there any discussions with any representative of the Richfield Oil Corporation concerning any TBA program or your handling of TBA products?

A. Later on, yes.

Q. When did that occur?

A. Oh, about the early part, probably, of 1946.

Q. The early part of 1946?

A. Maybe a little later. I don't recall exactly.

Q. By "TBA" you mean tires, batteries, and accessories sold in the service station?

A. That's right.

Q. To whom did you talk at that time concerning the TBA items?

A. Mr. Lalande.

Q. And who is Mr. Lalande?

A. I believe he had the title of merchandising man, or something.

Q. He was a Richfield representative?

A. A Richfield employee.

Q. What did Mr. Lalande say concerning TBA products?

A. Well, he suggested that we handle TBA products there, and inasmuch as my connections were better on the different brands, I told him I could not go along with it.

Q. Did he say anything with respect to what products [fol. 1828] were authorized by Richfield?

A. Oh, yes. I went to one of their promotional meetings at which their approved products were discussed.

Q. Was anything said at that time with respect to the petroleum products that you would handle or not handle?

A. You mean at the time the lease was signed,—that these papers were signed?

Q. Well, was there any such discussion at the time the lease was signed?

A. No, not at that time, no, sir.

Q. Were there such discussions later on?

A. Yes.

Q. When did they occur?

A. Probably, about the middle of 1946, I had some signs advertising Quaker State oil and MacMillan oil, and we were asked to take those down, which we did. Later on we were asked to discontinue——

Q. Pardon me just a moment. I don't think you specified who told you to take those signs down.

A. Mr. Field asked us to take them down, and he was in company with a Richfield man, I don't recall his name.

Q. Could it have been Mr. Lalande?

A. No, it was not.

Q. At that time what signs did you have up? What signs were you referring to?

[fol. 1829] A. We had a Quaker State and a MacMillan oil sign.

Q. Was anything said at that time concerning your handling of those oils?

A. Well, it was suggested that we should confine our efforts to Richfield products.

Q. Were you told to discontinue handling any brands of oil?

A. Yes, we were asked to discontinue handling Hy-Vis.

Q. Did you desire to handle Hy-Vis?

A. Yes, sir, because it was financially a better deal. It cost us less money.

Q. Was that oil sold in bulk or in cans?

A. We had it in bulk.

Q. Subsequent to those discussions, did you remove the signs that were objected to?

A. We did.

Q. Did you dispose of the Hy-Vis oil?

A. We did.

Q. Did you continue to handle any Quaker State oil?

A. Yes, we did.

Q. Did you display that oil?

A. Not out in front. We have it in our oil room.

Q. Did you notice any depreciation in the amount of your sales of Quaker State oil?

A. Well, whether taking the sign down had anything to [fol. 1830] do with it or not, I know we are buying less of it.

Q. What has your gallonage been at this station? First, what was the gallonage at the time you took over this station?

A. Well, that was during the war, so the gallonage would be affected, of course, by the rationing which was in effect at the time. It was running approximately 100,000 gallons a year at that time.

Q. Could you trace the history of your gallonage from then on?

A. It gradually started to show an improvement even then, and we built it up to a maximum of about 234,000 a year in 1948.

Q. What were your sales of Richfield lubricating oils? What would they average?

A. Oh, they run—I don't know by the gallon, but they run between 400 and 500 dollars a month for oil.

Q. What was your rental? How much rent did you pay?

A. From 1945 on we paid half a cent a gallon.

Q. Do you happen to know whether Mr. Field has a 3-C service station lease?

A. I have never seen his lease. I don't know what he has.

Mr. Somerville: Counsel, could you produce the 3-C service station lease between Mr. Field and Richfield?

[fol. 1831] Mr. Paradise: It is not in this file, Mr. Somerville. I will undertake to see if I can get it for you. It may be in the Northern Division office, however. I don't know. I haven't ascertained.

By Mr. Somerville:

Q. You do know, however, that Mr. Field leased the property to Richfield?

A. Yes, he told me so.

Q. Now, was there anything said during the whole period of your operation under this particular contract that you have referred to as to your handling any other gasoline or lubricating oil?

A. Well, except as I have stated, we were requested to discontinue Hy-Vis.

Q. Now, I hand you a document with the title "3-C. Operator's Sales Contract" on Form 783, with print date of 8-48, dated February 10, 1950, and ask you if you executed that contract.

A. Yes, that's my signature.

Q. I show you a document designated, "3-C. Operator's Lease," on Form 668, print date 9-48, dated February 10, 1950, and ask you if you executed that lease.

A. That's my signature.

Q. Would you tell the court what the minimum and maximum gallonage is that is specifield as to the various products thereon?

[fol. 1832] A. The minimum on gasolines is 12,219 gallons, on Richfield oils, 367, and on greases 183 pounds. The maximum gasoline is 14,663 gallons, lubricating oils, 440 gallons, and greases 220 pounds.

Q. Now, at the time this contract was renegotiated, had your former 3-C operator's sales contract and 3-C operator's lease expired?

A. No.

Q. Did you approach anyone with respect to changing the form?

A. No.

Q. Who approached you?

A. Richfield's representative, Mr. Froman.

Q. Mr. Froman. Do you know what his position was?

A. He is still with them as a representative, calling on dealers. I don't know what the official title is.

Q. Did he explain why he wanted you to execute this new form?

A. No, he didn't.

Q. At that time did he say anything concerning the signs on the premises, or did he say anything that would permit you to put up competitive signs?

A. It wasn't discussed.

[fol. 1833] Q. Did he say anything with respect to whether you could handle other brands of gasoline, lubricating oils or greases?

A. It wasn't discussed.

Q. And you signed the documents after this discussion?

A. I delayed signing if for some time, and was called on so much that I signed the thing more as an accommodation than anything else.

Mr. Paradise: I didn't hear the last part of the answer.

The Witness: I said I signed it more as an accommodation to Mr. Froman than anything else.

Mr. Paradise: I would like to hear the first part, please.

(Answer read.)

Mr. Somerville: To shorten the record, counsel, may it also be stipulated that the 3-C Operator's lease referred to there is the same as Government's Exhibit 4-D, and the 3-C Operator's Sales Contract is the same as Government's Exhibit 4-C?

Mr. Paradise: Yes, so stipulated.

Mr. Somerville: And, further, that the 3-C Operator's Sales Contract contains an additional provision, as follows:

> "In the event of any termination of that certain Operator's Lease executed concurrently herewith by and between the parties hereto this Operator's Sales [fol. 1834] Contract shall automatically terminate without notice or action on the part of either party hereto."

Mr. Paradise: Yes, so stipulated.

Mr. Somerville: And that these papers refer to the same service station as the former service station.

Mr. Paradise: Yes, so stipulated.

Mr. Somerville: And these are the new contracts that this man entered into after the original ones we have already referred to?

Mr. Paradise: Those are the contracts that were entered into in 1950. Is that correct?

Mr. Somerville: Yes, February 10, 1950.

By Mr. Somerville:

Q. Thereafter, after executing these new agreements, did you display any competitive signs?

A. I haven't.

Q. Thereafter, did you purchase Hy-Vis oil?

A. No, not after that.

Q. Did you desire to purchase Hy-Vis oil?

A. Yes.

Q. Did you feel free to do so?

A. No.

The Court: Whose brand is Hy-Vis oil?

The Witness: I believe it is made by the Sinclair Refining Company.

[fol. 1835] The Court: I see.

Mr. Paradise: I move to strike the witness' last answer.

The Court: Which?

Mr. Paradise: To the question, "Did you feel free to do so?" as being without foundation.

The Court: I would have sustained it.

Mr. Paradise: Forgive me, your Honor.

The Court: I don't think you were here when we had Judge Monroe in the Superior Court, were you?

Mr. Paradise: I know of him.

The Court: He would say, when an objection wasn't forthcoming, "The objection that should have been made is sustained."

By Mr. Somerville:

Q. You still operate this station, Mr. Moore?

A. Yes.

Q. I am interested in knowing—how much of an investment did you have in this station?

A. In merchandise, you mean?

Q. Well, of anything. What did you have invested in the station?

A. In merchandise and equipment probably about 13 or 14 thousand dollars.

Q. How many men do you employ?

A. An average of five.

[fol. 1836] Q. What hours is the station open?

A. From 6:30 until 9:00 on weekdays, and 10:00 to 5:00 on Sundays.

Q. Are you still operating under a 3-C Operator's Sales Contract, dated February 10, 1950, and the 3-C Operator's Lease of the same date?

A. No, that expired the 31st of March, 1951.

Q. I show you a sales contract on Form 337, print date 8-48, dated January 25, 1951, between Richfield Oil Corporation, the seller, and James F. Moore, as buyer, and ask you if that is the new contract that you executed.

A. That's my signature.

The Court: Let me see it.

(The document was handed to the court.)

The Court: Go ahead.

By Mr. Somerville:

Q. On the same date did you execute a painting agreement on Form 59, print date 5-47, dated January 25, 1951?

A. I did. That's my signature.

Q. Would you tell the court what the provision was for painting the station? Was there something?

A. Well, the station needed painting very badly, and we had been discussing it for some time. As a matter of fact, it was overdue. We had a dispute about some rent, due to repairs that I had made and paid for—had made and paid [fol. 1837] for. The oil company agreed to cancel what they called the delinquent rent, and which I called repairs, if I would sign this painting agreement and sales contract.

Q. What did those repairs consist of?

A. Roof repairs, pump repairs, plumbing repairs, some electrical repairs.

Q. What reason did you have for not paying them?

A. At the time Mr. Field left the Richfield Oil Company as distributor and a new distributor came in, I had a discussion with Mr. Hans, a Richfield Oil Company man, who at that time was some sort of a manager in Portland, and because he knew that the basic lease calls for Mr. Field to do the repair work, and because he was handling another brand of—distributing another brand of petroleum products, I felt he would not be particularly interested in knowing or

in maintaining property that was in competition with the brands of gasoline that he was handling. So I asked Mr. Hans who was going to take care of the repairs, because I was in the middle. Why, he said that they would be glad to do anything within reason. Unfortunately, some time later Mr. Hans passed away, and I held up payment of the rent in order to get some action out of the repair bills that I had put out.

Q. Now, at the time these new agreements were entered into, who owned the property?

A. Mr. Merrick still owns the property.

[fol. 1838] Q. The same owner as before?

A. That's right.

Q. What sort of an arrangement do you have for the occupancy of the premises?

A. On a 30-day basis.

Q. From whom?

A. From Mr. Field and Mr. Merrick, as a mutual agreement.

Q. So you have a 30-day arrangement with Mr. Field?

A. Yes.

Q. Now, calling your attention, Mr. Moore, to paragraph 1 of this painting agreement, I will ask you if you are familiar with the terms of that agreement, and with that paragraph.

A. Well, I haven't read it, so whatever is in it would be new to me.

[fol. 1839] Q. Would you read it?

A. Paragraph 1: "That dealer shall remove from the"—

The Court: No, no. Do not read it.

The Witness: All right. Let him read it.

The Court: You do not want the witness to read that contract. If you want to base a question on the statement, why, you read the statement.

By Mr. Somerville:

Q. Concerning your operations after the execution of these agreements, Mr. Moore, have you displayed any competitive signs since executing this new painting agreement?

A. No.

Q. Do you feel free to do so?

Mr. Paradise: I will object to that question as immaterial.
The Court: I think that calls for a conclusion.

By Mr. Somerville:

Q. Have you continued to purchase Hy-Vis oil? I mean have you resumed purchasing Hy-Vis oil?
A. No.
Q. Do you actively display any other oils?
A. We still purchase Quaker State and MacMillan.
Q. Do you still conceal it?
A. Well, semi.
Q. What are your reasons for doing that, Mr. Moore?

[fol. 1840] Mr. Paradise: Object to the question as immaterial and calling for a conclusion of the witness.
Mr. Somerville: He must be acting through some sort of a basis.
Mr. Paradise: That is not a proper assumption.

By Mr. Somerville:

Q. What is the basis for your actions?

Mr. Paradise: Objected to as an improper question, it calls for a conclusion, and immaterial.
The Court: It is awfully hard to draw the line, but I think unless there is some discussion or conversation with some representative, in view of the change of conditions of the contract, the question as to reasons goes a little too far.
Mr. Somerville: Very well, your Honor. I will ask another question or two.

Q. At the time you executed these new agreements was anything said about whether or not you could handle other products?
A. It was not discussed.

The Court: Well, has anybody discussed it since?
The Witness: No, sir.

By Mr. Somerville:

Q. So that your operations, as I understand it, since the instructions to remove the Hy-Vis signs and discontinue it have been the same?

[fol. 1841] A. Yes, sir.

Mr. Somerville: That will be all. Oh, one more thing.

The Court: If there is an inference of continuity, it is an inference that should be drawn by the court, not by the witness.

Mr. Somerville: Counsel, would you stipulate that the minimum and maximum figures in the sales contract, form 337, are specified as——

Mr. Paradise: All I can say at this time is that I am going to put these all in evidence.

The Court: I think there is one question that occurs to me now in view of the last question that Mr. Somerville asked, and that is, what is the date of the last discussion about removing signs?

The Witness: Oh, about 1947.

The Court: And what was the last discussion about having other products, non-sponsored products in sight?

The Witness: That has been a long time. We haven't put them in sight so there has been no basis for further discussion.

The Court: Oh, you haven't had any. Have you been informed since that time that the ruling in any respect has been changed?

The Witness: No, sir.

[fol. 1842] The Court: All right.

Cross-examination:

By Mr. Paradise: May I first offer into evidence as Defendant's Exhibit H the two instruments entitled, separately, "3-C Operator's Lease" and "3-C Operator's Sales Contract," dated December 7, 1945 and signed by Mr. Moore and by Richfield.

The Clerk: Is this admitted, your Honor?

The Court: Yes, it may be received.

The Clerk: Defendant's Exhibit H in evidence.

(The document referred to was marked Defendant's Exhibit H and received in evidence.)

Mr. Paradise: Richfield will then offer as Exhibit—I suggest that these three instruments go together as a part of the one exhibit, if you can make a sub-heading.

The Clerk: H and H-1.

Mr. Paradise: I am offering the 3-C Operator's Lease and 3-C Sales Contract, both dated February 10, 1950, signed by Mr. Moore and by Richfield.

The Clerk: Is this admitted, your Honor?

Mr. Somerville: Counsel, the 3-C service station lease as to the third party, between Field and Richfield, is not included. I think, to show the entire arrangement, that you should produce and offer that additional document.

Mr. Paradise: I will be glad to if I can secure it. I do [fol. 1843] not have it in court, Mr. Somerville.

The Clerk: Is this admitted, your Honor?

The Court: It may be received.

The Clerk: That is Defendant's H-1 in evidence.

(The document referred to was marked Defendant's Exhibit H-1 and received in evidence.)

Mr. Paradise: Richfield then offers as Defendant's H-2 a sales contract on form No. 337, dated January 25, 1951 and signed by James Moore and by Richfield.

The Court: It may be received.

The Clerk: Defendant's H-2 in evidence.

(The document referred to was marked Defendant's Exhibit H-2 and received in evidence.)

Mr. Paradise: I next offer as Defendant's Exhibit H-3 a painting agreement on form No. 59, dated January 25, 1951 and signed by Mr. Moore and by Richfield.

The Court: It may be received.

The Clerk: Defendant's H-3 in evidence.

(The document referred to was marked Defendant's Exhibit H-3 and received in evidence.)

By Mr. Paradise:

Q. I understand, Mr. Moore, that you first occupied this property commencing in 1941?

A. 1943.

Q. 1943. Forgive me. Do you know when Mr. George Field first leased the proper- from Mr. Merrick?

[fol. 1844] A. The lease we are operating under now, I believe was in 1941.

Q. Do you know whether or not Mr. Field held that lease for his own account?

A. What do you mean?

Q. Well, that he was the lessee personally, rather than held it in his capacity as distributor for Richfield?

A. I believe it was personal.

Q. Do you know whether he ever received any personal income from owning that leasehold?

A. He told me he has.

Q. On what basis did you sublease this property from Mr. Field in 1943?

A. We just made a verbal agreement of a cent a gallon rent to him.

Q. And you paid that to Mr. Field?

A. That is right.

Q. At that time was Mr. Field a Richfield distributor in Medford, Oregon?

A. That is right.

Q. Did you purchase gasoline from Richfield commencing in 1943?

A. Yes, sir.

Q. And did you continue purchasing gasoline from Richfield from then until 1945, when you entered into this 3-C [fol. 1845] operator's sales contract on December 7, 1945?

A. Yes, sir.

Q. Was that purchase made pursuant to any contract or agreement with Richfield, either oral or written?

A. I hadn't talked to a Richfield man. I dealt with Field.

Q. How did you purchase that gasoline, in what manner?

A. Well, a tank wagon dumped it and billed us and we paid for it.

Q. Prior to the time when you signed this sales contract and operator's lease which is Defendant's Exhibit H were you not informed that Mr. Merrick—let me withdraw that. Did you become on close terms with Mr. Merrick?

A. I have known him a long time.

Q. Pardon me?

A. I have known him a long time.

Q. Is it not a fact, Mr. Moore, that at the time this 3-C operator's sales contract was signed which is Defendant's Exhibit H that Mr. Merrick had informed Mr. Field that Mr. Field would be permitted to lease this property to

Richfield only if Richfield at the same time agreed to sublease it back to you personally?

A. I believe Mr. Merrick's lease to Mr. Field stipulates that he has the right to approve the operators that we put in at the station.

[fol. 1846] Q. Yes.

A. And on that basis it was suggested to Mr. Field that the station be operated by me.

Q. That was suggested by Mr. Merrick to Mr. Field?

A. That is right.

Q. And was it not also suggested by Mr. Merrick to Mr. Field that he would consent to the sublease by Mr. Field to Richfield only if Richfield subleased it back to you for the full five and one-half year period referred to in Defendant's Exhibit H?

A. I was not there at that conversation.

Q. You have knowledge of that fact, however, do you?

A. I was told that that was going to happen but I was not there.

Q. Yes, sir.

The Court: In other words, you knew that your lease would be for a definite term?

The Witness: Oh, the lease, yes, sir.

By Mr. Paradise:

Q. And you also knew that Mr. Field could lease it to Richfield only if Richfield in turn and at the same time leased it back to you?

A. As long as the relations that were existing at that time would remain, yes.

Q. At the time you signed this Defendant's Exhibit H you were aware of the fact that this agreement contained a [fol. 1847] provision in paragraph 1 that Richfield agreed to sell and deliver to you, and you agreed to purchase from Richfield during the period from October 1, 1945 to March 30, 1951 your entire requirements of automotive petroleum products for resale at that particular service station?

A. Yes.

Q. You knew that that was in it?

A. That is right.

Q. Was any reference to that clause made by Mr. Lalande

when he discussed with you—let me withdraw that. I think you mentioned that the discussion of the Quaker State and MacMillan signs was not made by Mr. Lalande?

A. They were not.

Q. Who did tell you that in 1946?

A. Mr. Field.

Q. Mr. Field. At that time did Mr. Field make any reference to the provision of this contract that I have just shown you?

A. Well, he said, "You are not supposed to handle anything else but Richfield products, and if the signs are up, why, it will just mean a lot of explaining."

Q. He did not make any reference to this particular contract, did he?

A. Not directly.

Q. During that time from 1945 and until you signed the [fol. 1848] amendment, this new sales contract in February of 1950 which is Defendant's Exhibit H-1, you have handled so-called competitive tires, batteries and accessories, have you not?

A. Yes, sir.

Q. Are you a tire distributor?

A. Yes, sir.

Q. For what company?

A. United States Rubber Co.

Q. Have you handled at this service station other accessories than those that are on Richfield's list approved for credit card purposes?

A. Yes, sir.

Q. You mentioned in your previous testimony that Mr. Lalande at some time—I think you said in 1946—suggested that you handle TBA approved by Richfield.

A. I discussed it with him. The date was approximately that time, shortly after he came on the territory, whenever that date was.

Q. Mr. Lalande asked you to become a TBA distributor, did he not?

A. He said he would discuss that with me. We never got down to figures.

Q. Oh, I see. Mr. Lalande never told you that you were not supposed or were not expected to limit your TBA at that station to Richfield's approved list, did he?

[fol. 1849] A. It was discussed and I told him that our arrangement was there when I took over the place and we were going to continue on that basis we had previously operated.

Q. In February 10, 1950, when the second group of contracts were signed which constitute Defendant's Exhibit H-1, what was your gallonage of gasoline at the station?

A. It runs approximately 200,000 a year.

Q. Is it constant throughout the year, Mr. Moore?

A. With a slight seasonable variation due to weather, which we do have, but generally quite constant.

Q. By my rough calculations, that would be something around 18,000 gallons per month. Is that about right?

A. Approximately, yes.

Q. Was that the gallonage at the time this contract dated February 10, 1950 was presented to you?

A. Approximately, yes.

Q. With whom did you say you discussed this contract?

A. Froman, I believe his name is.

Q. Was there any discussion between you and Mr. Froman pertaining to the minimum or maximum quantities that are referred to in this contract?

A. There was some. I don't recall exactly. I asked him why, and he didn't know, so we let it go at that.

Q. You asked him why what?

A. Why there was a maximum put on the amount of [fol. 1850] gasoline that could be purchased under this contract.

Q. Did you discuss whether or not the figures stated in this contract, which are 12,000 gallons—12,219 gallons as a minimum and 14,663 gallons as a maximum—did you discuss with Mr. Froman whether those figures were either too high or too low?

A. I insisted they were too low.

Q. You wanted the figures raised?

A. Yes, sir.

Q. And you so told him?

A. Yes.

Q. And what was his response?

A. Oh, he says, "Let us get this out of our hair. We will take care of it. Your contract will be up pretty quick and we will have to sign a new one."

The Court: Did you ever run above the maximum and have difficulty in having it supplied?

The Witness: Not yet.

The Court: All right. So that it is merely abstract, ultimately. If they gave you more, you would buy more, wouldn't you?

The Witness: That is right, sir.

The Court: Except in a shortness they might want to cut you down.

The Witness: That is problematical.

[fol. 1851] By Mr. Paradise:

Q. Your purchases under this contract dated February 10, 1951, have exceeded the maximum, have they not?

A. February 10th, 1950, yes, sir.

Q. They were in excess of this maximum quantity which is here stated at 14,663?

A. Yes, sir.

Q. Now, what relation do the quantities of lubicating oil that are specified in this contract bear to the quantities which you were purchasing and selling at the station at the time this contract was made? And, to refresh your recollection, the contract provides that the minimum quantity of lubricating oil is 367 gallons and the maximum quantity is 440 gallons.

A. We did not discuss lubricating oils and greases to any extent because the gallonage figures or records were not kept by me, and my discussion related almost entirely to gasoline.

Q. Is it not correct that the quantity of lubricating oil that you were purchasing and selling at the station at that time was substantially in excess of the minimum figure of 367 gallons per month?

A. I don't know. If we had between $450 and $500 a month, why, that would be about those figures.

Q. I call your attention, Mr. Moore, to a clause that appears in the sales contract dated February 10, 1950 imme-[fol. 1852] diately following the statement of quantities,

these figures that I have read to you, and I would like to read this to you:

> "The above quantities represent those to be purchased and sold under normal business conditions, and in the event because of climatic or other conditions buyer's sales are abnormally less during certain periods of the year, the aforesaid quantities will be proportionately reduced"——

I must apoligize, your Honor, because there is a rubber stamp over this and one of the words is hard to read.

> "reduced for said months, based upon previous business experience of Buyer's station or of business generally in the vicinity in the event that Buyer's station has had no previous business experience."

Was that clause discussed between you and Mr. Froman?

A. No, sir.

Q. Was there any mention of climatic conditions made by you to Mr. Froman or the fact that your business was seasonal?

A. I don't recall having done so.

Q. Now calling your attention to the sales contract form 337, dated January 25, 1951, which is Defendant's Exhibit H-2, the term provided in this contract is April 1, 1951 and extends to March 31, 1953, is that correct?

A. Yes, that is what I signed.

[fol. 1853] Q. It also contains a provision that, and I am referring to paragraph 2, this contract also contains a provision that the term is, "Subject, however, to termination by either party at any time during the term hereof by means of a thirty-day notice in writing to the other party."

Did you have any discussion with Mr. Froman concerning that provision at the time you signed this contract?

A. Yes, sir.

Q. What was your discussion?

A. I felt it would be to our mutual advantage to have something like that in the contract.

The Court: Is that a typed clause, or is that the regular printed form?

Mr. Paradise: It is a regular printed clause, your Honor.
The Court: The thirty-day clause?
Mr. Paradise: Yes, the thirty-day clause is printed.
The Court: Printed, all right.

By Mr. Paradise:

Q. Now, the commencement date of this contract, April 1, 1951, coincided with the expiration of the original lease from George Field, as lessor, to Richfield, as lessee; isn't that correct?

A. I have never seen his lease, so I don't know.

Q. Well, put it this way: The commencement date of April 1, 1951 coincided with the expiration of the sublease [fol. 1854] from Richfield to you——

A. That's right.

Q. —under the 1950 contract?

A. Yes.

Q. And commencing on April 1, 1951, is it not correct that you are leasing that property directly from Mr. Field?

A. Yes.

Q. And not from Richfield?

A. And not from Richfield.

Q. Now, calling your attention to the quantities specified in the sales contract of January 25, 1951, which is Defendant's Exhibit H-2, I note that the quantities of gasoline have been changed in this respect: the minimum is now stated at 12,538 gallons and the maximum is stated at 18,000 gallons. Did you have any discussion with Mr. Froman concerning those figures?

A. Yes, sir.

Q. What was that discussion?

A. The original painting and sales contract, as presented to us, called for considerably less gallons as a maximum, and I couldn't see anything in going along with that contract.

Q. So the increase in the maximum figure was at your request?

A. Yes, sir.

[fol. 1855] Q. At the time this contract of January 25, 1951 was signed, what was the volume of gasoline at your station?

A. It is running constant.

Q. Around 18,000 a month?

A. Yes, sir.

Q. Calling your attention to the quantities of lubricating oil that are specified, can you state whether the quantities of lubricating oil, the minimum quantity of 125 gallons which is specified in this contract,—how that compares with your current purchases and sales of lubricating oil?

A. That is considerably less than we are purchasing at the present time.

Q. The figures which have been inserted in these respective contracts refer to quantities per month, do they not?

A. Yes, sir.

Q. Now, with reference to the matter of that rental dispute that you testified to, it is correct, is it not, that there was litigation between Richfield and you concerning that rent?

A. Yes, we had some correspondence about it.

Q. Did it progress to the point of litigation? Did Richfield file a law suit against you?

A. I don't believe they actually brought suit, other than [fol. 1856] a threat to do so, and a notification of the suit.

Q. Now, is it not correct that the matter was compromised in connection with the painting of the station?

A. It was compromised to the extent that if I signed the paint and sales agreement by a certain date, that suit would not be started.

The Court: That is a compromise.

By Mr. Paradise:

Q. That sounds like a compromise in a fashion, Mr. Moore. Were you agreeable to signing this paint agreement?

A. As the best I could do at the time.

Q. Were you also agreeable to signing the sales contract?

A. As the best I could do at the time.

Q. Were you forced to sign them?

A. You don't force a man to do anything.

Q. The other contracts were due to expire, were they not? I mean, your last preceding contracts were due to expire, were they not, on March 30, 1951?

A. That's right.

Q. At the time the paint and sales agreement, dated January 25, 1951, were signed, or at a time prior to that time, had you negotiated with any other oil company or potential supplier of gasoline?

A. I have not done so.

[fol. 1857] Q. You did not do so?

A. No, sir.

Q. Had you been solicited by any other oil company?

A. Indirectly.

Q. Were you interested in securing a source of supply from a different company?

A. Not for the present.

Q. Therefore, you were entirely willing to make a sales contract with Richfield, to continue Richfield as a source of supply?

A. On the basis of $280.

Q. On the basis of these exhibits?

A. On the basis of $280 savings. That was quite an influential part of it.

Mr. Paradise: I see. I have no further questions.

The Court: Any redirect?

Mr. Somerville: Yes, your Honor.

The Court: Make it brief. We want to quit. For a change I want to let Mr. Childress actually leave at 5:00 o'clock, so he will have it in the book.

Mr. Somerville: I have just a couple of questions, your Honor.

[fol. 1858] Redirect examination.

By Mr. Somerville:

Q. Mr. Moore, you testified concerning the 30-day termination clause in the sales contract. Why was it to your mutual advantage to have a 30-day termination clause?

A. My experience based on a long period contract was that wasn't too good.

Q. Wasn't there some particular reason here? Who owned the property?

A. Mr. Merrick owned the property.

Q. And you weren't leasing the property from Mr. Merrick?

A. No, not yet.

Q. But you had a verbal arrangement?

A. I have a verbal arrangement whereby at such time as we can get together I will get the direct lease.

Q. Do you know whether Mr. Field had any lease at that time?

A. His lease, under which we are now operating, called for a 30-day extension from month to month until a new lease would be negotiated.

Q. Mr. Field's lease was on a 30-day basis?

A. That's right.

Q. And yours also had to be on a 30-day basis?

A. That's right.

[fol. 1859] Q. Who finally determined the minimum and maximum quantities specified in your contract, both the second 3-C sales contract, and then subsequently the sales contract?

Mr. Paradise: I object to that.

The Witness: I don't get the question.

Mr. Paradise: Your Honor, that has been asked and answered. He testified he objected to the amounts inserted, and they were changed.

The Court: I think that has been gone into. I will sustain the objection.

Mr. Somerville: That will be all.

Mr. Paradise: At the risk of taking advantage of Mr. Childress, may I ask one question to clear up the record?

The Court: Yes.

Recross-examination.

By Mr. Paradise:

Q. Mr. Moore, when did Mr. Field cease being a Richfield distributor?

A. I don't know that date.

Q. Well, it is several years ago, is it not?

A. Yes, sir.

Q. And since that time he has still continued in his capacity as a lessee from Mr. Merrick?

[fols. 1860-1863] A. Yes, sir.

Mr. Paradise: Thank you. That is all.
The Court: All right. Anything else?

(No response.)

The Court: Step down.
The Witness: Thank you, sir.

(Witness excused.)

The Court: Now, gentlemen, we will take our usual recess until tomorrow morning.

(Whereupon, at 5:00 o'clock p. m., Tuesday, May 15, 1951, an adjournment was taken until 10:00 o'clock a. m., Wednesday, May 16, 1951.)

[fol. 1864] Wednesday, May 16, 1951, 10:00 A. M.

The Court: All right, gentlemen.
Mr. Paradise: If the court please, I was asked yesterday by the Government to produce a lease from Mr. George Field to Richfield Oil Corporation which is dated December 7, 1945. Inasmuch as that pertains to the testimony of Mr. James Moore, may I ask that it have a related exhibit number? I suggest H-4 and offer it into evidence.
The Court: All right.
The Clerk: Defendant's Exhibit H-4 in evidence.

(The document referred to was marked Defendant's Exhibit H-4 and received in evidence.)

Mr. Paradise: There is no objection, is there?
Mr. Dixon: No objection.
Mr. Paradise: On the ground that this is a photostat of the original?
Mr. Dixon: No, no, no objection.
Mr. Paradise: May I ask leave of the court at sometime, at the court's convenience, to withdraw some of our exhibits and substitute photostats in lieu of the originals?
The Court: Oh, yes, it may be done.
Mr. Somerville: The Government calls as its next witness E. J. Bradford.

[fol. 1865] ELGIE J. BRADFORD, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: What is your name, please?
The Witness: Bradford, Elgie J.

Direct examination.

By Mr. Somerville:

Q. What is your name, sir?
A. Bradford, E. J. Bradford.
Q. And where do you reside?
A. Medford, Oregon.
Q. And what business are you in at the present time Mr. Bradford?
A. I am a real estate broker.
Q. Have you ever been employed by Richfield Oil Corporation?
A. Yes, sir.
Q. In what capacity, chronologically?
A. Well, various capacities. Starting from 1930 I was employed by the Pan-American Petroleum Co.

Mr. DeMartini: May I ask that the testimony be limited to the commencement of this present corporation, the defendant in this action?
The Court: All right. However, in his relationships as before he may state generally.

[fol. 1866] A. I don't know the exact date then of Richfield's commencement, but I left the employ in December of 1947.

By Mr. Somerville:

Q. Calling your attention to the period about 1937 what was your position at that time?
A. In 1937. Well, I was district supervisor in eastern Oregon and Washington and Idaho. That was just about the time I left there and went in to Portland, in '37. I don't know the exact month, but sometime in the middle of the summer.

Mr. Paradise: Would you speak a little louder, please, Mr. Bradford?

The Witness: Yes, sir.

By Mr. Somerville:

Q. Would you state just briefly, generally, what your duties were as district supervisor?

A. Well, I was "Mr. Richfield Oil Corporation" you might say, the only salaried man in that whole district, and I was working with and supervising commission agents.

Q. You are referring to the commission bulk plant agents, are you?

A. That is right.

Q. At that time did you have any supervision over service station outlets?

A. Yes, through the agents.

Q. Through the agents. The agents were under your direct supervision?

A. That is right.

[fol. 1867] Q. And what area was that in?

A. Well, it took in from about 35 miles of Spokane to Bonneville, to possibly 50 miles of Klamath Falls, all the country east of there, would be eastern Oregon, Washington, and the entire state of Idaho.

Q. Are you familiar, Mr. Bradford, with the different types of papers involved in connection with Richfield's relationships to service station operators?

A. I am, yes.

Q. You know what we mean when we refer to a leased out station?

A. Yes.

Q. And you know what we mean when we refer to a 2-B type of station?

A. Yes.

Q. And a 3-C type of station?

A. Yes.

Q. And a paint and sales type of station?

A. Yes.

Q. During the period that you were district supervisor did you have stations of all of these categories in your supervision?

A. We had all but the 3-C. That was originated later to replace the 2-B.

Q. In your instructions to the commission bulk plant [fol. 1868] agents was there anything said about whether these certain stations were to be on a 100 per cent basis insofar as the petroleum products were concerned?

A. Well, that was the entire effort, yes.

Q. And were you carrying out instructions from your superiors?

A. I was.

Q. Did you receive those instructions in bulletins or——

A. Ordinarily they came out in a division manager's bulletin, serially numbered, and oftentimes we would be called in to Seattle for some special policy change or other. We would all be called in and each district supervisor would bring his own agents in, commission agents, and we might be there for two or three days getting first-hand in these meetings.

[fol. 1869] Q. Did you make any effort to see that—first of all, were there any split pump accounts in your territory?

Mr. DeMartini: May I ask what time you are referring to now, Mr. Somerville?

By Mr. Somerville:

Q. What was the period, Mr. Bradford? Will you explain the period that you were acting as district supervisor in charge of these bulk plant agents in this area?

Mr. Paradise: That isn't the question. The question is what time did he testify to as to this practice and policy?

The Witness: Do you mean, when we would go to Seattle to a meeting?

By Mr. Somerville:

Q. Yes.

A. Oh, I imagine we were in Seattle possibly three or four times a year. I might be in Boise and get a wire to be in Seattle three days later with my commission agents, but so far as the times and dates, I wouldn't know that.

Q. Would that be in 1937, sir?

A. Up until the time I left, yes.

Q. Did you have any split pump accounts in your area?

A. No, they were pretty well cleaned up. I went over there in 1935 from Hollywood and, as I recall, the split pump accounts were pretty well cleaned up. I don't recall having any experience with them. They had some in the [fol. 1870] branches, that I know of, but not in my territory. I think there was in Baker, to the best of my recollection, there was one grocery had a pump of Richfield and the other one was a pump of Shell, but outside of that I don't recall any split pump accounts.

Q. Do you have any knowledge of what happened to that particular station?

A. Well, I don't know. It was there when I left. It either went 100 per cent Richfield, or they pulled out of the station. I don't know.

Mr. DeMartini: I move that that be stricken as not responsive.

The Court: It is responsive, but it is not material. Objection sustained.

By Mr. Somerville:

Q. Now, subsequent to your capacity as district supervisor, what position did you then hold?

A. I was taken into Portland and made officer manager.

Q. When was that?

A. That was from 1937 to '43.

Q. And in 1943 did you assume another capacity?

A. I became branch manager of the Portland branch.

Q. Branch manager of Portland. How long did you hold that position?

A. Well, it was '46, I think; about March of '46.

Q. As Portland branch manager, did you have super- [fol. 1871] vision over the bulk plant operations in the Portland area?

A. Well, we had no bulk plant operations in the Portland area. The same as what we would call a bulk plant operation in the territory, that was a salaried proposition.

Q. Did you have supervision over all of Richfield's activities, so far as Portland was concerned?

A. Yes, sir.

Q. Did you, specifically, have supervision of the service station outlets?

A. Yes, I did.

Q. Subsequent to 1945, what position did you hold?

A. Well, I was——

Q. That is, after——

A. From 1943 to '46 I was Portland branch manager. Then I became the real estate representative for Oregon and Idaho.

Q. As real estate representative, what were your duties?

A. We had considerable money set aside to expand, and I bought locations, existing stations, leased stations, and expanded any way we could.

Q. In other words, you acquired leases or property in fee?

A. We were primarily buying at that time. We bought them if we possibly could, yes.

[fol. 1872] Q. While you were the Portland branch manager, could you give us some idea of the number of Richfield service stations under your jurisdiction?

A. Yes. I think we had about, to the best of my knowledge, about 50 L-Os, and about 17 dealer accounts. That would be pretty close, as near as I remember.

Q. Those L-O accounts, were there any of those where Richfield owned the property in fee?

A. Well, not too many. I bought a few existing L-O units, but at the time I left the position as branch manager, I would assume they owned about somewhere around 20.

Q. Subsequently did you acquire additional sites, in your capacity in the real estate end of things?

A. I did, yes.

Q. Now, in connection with acquiring a particular piece of property in connection with an L-O unit, was there any particular basis for deciding whether to lease that property or to buy the property?

A. Well, very definitely. We had many cases we would take a lease, but we wouldn't want to own it. That could have been affected in a lot of ways.

Q. What rule of thumb was there, if there was one? What was the basis of determining the price that would be paid for any particular property?

A. Well, we had a yardstick of what we called $1.50 a [fol. 1873] gallon. As explained, that would be the monthly gallonage. Say the station had been doing, whether it was a Richfield station or a competitive station, and if we could establish the gallonage at the competitive station definitely, as an example, if he was doing 30,000, I could go up to $45,000. That would be based on $1.50 a gallon, and we finally went to—Mr. Sinclair authorized $2 a gallon, and we bought some subsequently for more than that.

Q. In determining whether you would buy, you would make surveys of the gallonage in the area, if there was not an existing unit, and in the event there was an existing unit, you would check the gallonage, the history of the particular location?

A. Yes, that station and every station within a 10-block radius, and, also, to make sure there was no street changes or road changes contemplated, such as——

Q. This basis of offering $1.50 a gallon to $2, that was figured on the property making a return on your investment, was it not?

A. Well, that was, so far as I know, considered a paying unit. If the gallonage would justify—if you could get it for $1.50 a gallon, based on the monthly gallonage, that was considered in our operation as a very good deal. We got some for less than that.

Q. Were there instances in which you purchased prop- [fol. 1874] erty below this rule of thumb?

A. Oh, yes.

Q. Did that occur frequently?

A. Well, yes, I would say a very high per cent was bought below $1.50.

Q. Calling your attention to a service station at 45th and Hawthorne, operated by Ed Radke, at Portland, are you familiar with that station?

A. I am.

Q. You purchased that property, did you?

A. Yes.

Q. How much did you pay for it?

A. Well, we paid, to the best of my recollection, $20,000, but there was an existing lease on there that ran about three and a half years.

Mr. Paradise: I move that be stricken. The question is: What did you pay for it?

The Court: Yes.

The Witness: We paid for it—that entered into the deal. What we paid for it, as I recollect, was $20,000.

By Mr. Somerville:

Q. Was there an existing lease on that property at the time you purchased it?

A. There was, yes.

Mr. Paradise: Objection on the ground of materiality. Mr. Bradford, will you delay answering the questions until [fol. 1875] we have an opportunity to object?

The Witness: Yes.

The Court: May I have the question read?

(The question and answer were read.)

The Court: All right. Go ahead.

The Witness: Well, that was the answer, there was a lease on it. Was that the answer? Yes.

By Mr. Somerville:

Q. Are you familiar with how much rental was being paid by Richfield under that lease?

A. Well, to the best of my recollection, there was minimum guarantee of $125 a month.

Q. How long did the lease have to run at the time the property was purchased?

Mr. Paradise: Your Honor, I must object on the basis of materiality.

The Court: You dropped your voice, Mr. Somerville, and I didn't get that.

Mr. Somerville: Will you read the question?

(The question was read.)

The Court: Overruled.

Mr. Paradise: We will be glad to produce these documents, your Honor.

The Court: I know, but that is all right, if he knows. Having negotiated the lease, if he knows about it, we can

get the information now, subject to being verified by the [fol. 1876] lease. After all, it isn't necessary that every fact be substantiated by an exhibit. You are making a very big record, gentlemen. I presume you are watching it, too. You are either putting in a lot of evidence, or doing a lot of talking, whether it is the lawyers, or the court, or the witnesses. Go ahead.

The Witness: If I recall that question, it was how long the lease ran at the time we bought the station?

[fol. 1877] Mr. Somerville: Yes.

A. I would say a little over three years to go.

Q. What was the gallonage at that station?

A. It was over 20,000 gallons a month.

Q. Under the yardstick, then, how much could you have paid for the property?

A. We could have paid 30,000 on the original yardstick.

Q. That was not an isolated instance, was it?

A. No.

Q. With respect to property on which a leased out station was constructed or where there was an existing leased out unit in which Richfield leased the property from the owner was there any gauge for determining the amount of rental that would be paid the property owner?

A. Well, we tried to get those at a cent a gallon, the ultimate goal. The best deal, we might say, was a cent a gallon, but we ordinarily wound up with some minimum guarantee, and oftentimes with one cent and a half with a minimum guarantee. However, we did lease property at a cent a gallon but they are infrequent cases.

Q. In connection with the leases to the service station operators there was usually a minimum rental there, was there not?

A. That was customary, yes.

Q. Was there any rule of thumb as to the amount of mini-

[fol. 1878] mum rental that the dealer would pay?

A. Well, yes. We would put out minimum as close as we could to this cent a gallon figure. If he was doing 10,000, that station was doing 10,000, why, we would put the minimum he would be paying at $100 a month. We put the minimum as close to that as we could, but we didn't put it over.

Q. Your effort, then, was to make that rental cheap——

Mr. DeMartini: Let him answer the question.

Mr. Somerville: Oh, I am sorry. Did you have something more to add?

A. Well, that is the way we put it together where we had an existing unit. Sometimes we would take a new one and we would not know what it would be, we would drop the minimum down and let the cent a gallon take care of it.

Q. Was there any effort to balance the rents receivable against the rents paid?

A. Well, they were carefully scrutinized, yes.

Q. From your experience during this particular time would the rents receivable and the rents paid balance out pretty closely?

Mr. Paradise: I object to that as no proper foundation.

The Court: If he knows.

Mr. Somerville: If he knows.

The Court: If you know of your own knowledge.

[fol. 1879] A. Well, the rental receivable, the rent receivable would be less than the rent payable when we took it over. Any branch operation, as far as any branch I have ever worked in, the rent payable would exceed the rent receivable for the total figure.

By Mr. Somerville:

Q. Were there some instances, to your own knowledge, where the operator paid the same rent as Richfield was required to pay?

A. Yes, we had deals where the L-O operator would be paying as much rent as we were paying.

Q. When you referred to rents are you talking about only the minimum, or the total amount that would be received under the scale whereby a minimum would be fixed, plus a certain amount over, a certain gallonage?

Mr. DeMartini: That is assuming a fact contrary to the evidence and it is contrary to the terms of the leases that are in evidence.

Mr. Somerville: Let me withdraw that question.

Q. Were there some instances in which the operator was actually paying more rental than you were paying to the property owners, that you know of?

Mr. Paradise: If the court please, I object to that testimony because counsel is obviously asking for isolated instances which do not call for a pattern. I do not see what materiality that would have.

[fol. 1880] The Court: Overruled. Go ahead, if you know of any instances.

A. Well, I believe I know of one or two. I think there is one in Portland at 78th and Gleason and, if I recall, we were collecting more rent than we were paying, to the best of my knowledge. There might have been another one, but I wouldn't want to say.

By Mr. Somerville:

Q. Calling your attention to the period that you were Portland branch manager, were there any 3-C or 2-B stations in the Portland area at that time?

A. Well, I believe the 2-B had been eliminated when I came in there as branch manager. There were two B's there in existence when I was office manager, but when I took the branch over the 2-B was eliminated, I am sure. We didn't have any more of them.

Q. Subsequently, during the period that you were branch manager and in the real estate department, did you have anything to do with acquiring 3-C leases?

A. Well, I had the forms with me and I was supposed to pick up any 3-C deal I could, but I never did make one because I had too much to do. I was familiar with the paper, but that was all. I never made a 3-C.

Q. Were you familiar with the usual type of arrangement that was entered into with 3-C operators?

A. Well, familiar from just the forms and knowing what [fol. 1881] it was, but not from actually putting one together.

Q. Do you know in connection with a 3-C deal, in addition to a 3-C operator's lease, a 3-C service station lease, a 3-C operator's sales contract, were there any other papers executed between the parties?

A. Well, of course, where they loaned money it would require a note, and I am not sure whether it required a mortgage or not but it did require a note.

Q. Were there many instances in which loans were involved?

Mr. DeMartini: I object to this, your Honor, on the ground the witness has testified he has not negotiated any of the leases. He is only familiar with the papers.

Mr. Somerville: He can testify if he knows, whether he negotiated them or not.

The Court: You are asking on his own, where he called?

Mr. Somerville: No. Whether any loans were a part of any 3-C transactions to his knowledge.

The Court: All right. If you know?

A. I do not know.

The Court: All right.

By Mr. Somerville:

Q. All right. Who was your superior while you were in the real estate department?

A. Well, my immediate superior was William Hance, assistant division manager with his office in Portland, and the [fol. 1882] next above him was Ernest Kirby, division manager in Seattle, and from then on up down here to the home office, but those were the two men I answered to.

Q. Were you under any instructions to accept 3-C deals except on 100 per cent basis, that is, that they deal only in Richfield products 100 per cent?

A. They had to be 100 per cent, as far as I knew.

Mr. Somerville: May I have Government's Exhibit 5-G?

Q. I call your attention to Government's Exhibit 5-G designated "Sales Contract" on Form 337, and Government's Exhibit 5-E on Form 59, and ask you if you are familiar with that type of contractual arrangement?

A. I am.

Q. And in connection with your duties as Portland branch manager and subsequently in the real estate department did you have anything to do with negotiating these papers?

A. Well, yes. I renewed several of those contracts.

Mr. Paradise: Mr. Somerville, may I interrupt you for a moment?

Mr. Somerville: Yes, sir.

Mr. Paradise: What exhibit numbers did you refer to?

Mr. Somerville: To 5-E and 5-G.

Mr. Paradise: Those appear to have been printed in 1948 and this man testified he left the employ in 1947.

Mr. Somerville: That is right. I meant to pick up a prior [fol. 1883] form.

Q. Mr. Bradford, in connection with those agreements that you just looked at, there were sales agreements and painting agreements in effect during your particular period?

A. That is right.

Q. You did not look at the print number when you looked at those documents there?

A. No. It looked like the same form to me.

Q. Calling your attention and I am now referring to Government's Exhibit 5-C which is a painting agreement, form 59, print date 6-39. Without reference to the particular date on there, I ask you to look at paragraph 1 and ask you if that type of provision was in the painting agreements that were negotiated and executed by you during this particular period?

A. I am sure it was.

Q. In executing a sales contract and a painting agreement with any dealer was there any understanding on the part of the dealer that he should deal 100 per cent in Richfield Petroleum products?

Mr. Paradise: Objected to on the ground of lack of foundation and it calls for the conclusion of the witness as to someone else's opinion.

The Court: Yes, sustained. By the way, when it comes to these supervisors, I do not mind a question on that being [fol. 1884] asked of an individual dealer which goes to his understanding, and even then it is leading. But when you come to these supervisors, the way they are to be judged is by what they did and what they said, the impression they gave. They do not know what impression the dealer may have had. He may have had his own impression that he had to deal in a certain way or something else, and that cannot be proved except by the facts. When you are asking leading questions you are weakening your own case, because the

average judge of experience—and I use that adjective because, if I have nothing else, I have had 24 years of experience as a trial judge—is not much impressed by generalizations induced by leading questions, leaving aside any question of the rules of evidence.

Furthermore, here is one thing that has developed in this case. This is our sixth day. For some ungodly reason I thought this was Thursday. I don't know why. This is our sixth day. We have covered a good deal of ground, we have run through a lot of witnesses. It is quite apparent now that insofar as the L-O stations are concerned the defendants are not contending that they did not boss the job, you see, because they contend that they own the station. They had a right to. They do not like to use the ordinary categories, and before we get through we will probably invent something. I will send it to my friend Professor Green of the University of Illinois who is an authority on words. We [fol. 1885] will invent some word that will cover a new relationship that is not included in "independent contractor" and "employer and employee." But it is a nameless relationship which they say has the characteristic of some fiduciary relationship, something like a del credere relationship or the like. We have not struck a name for it.

They are not contesting it. They are saying, "Why, of course, we did everything. They are ours. We owned them."

So there becomes a question of law whether that relationship is one which may characterized as akin to "employer and employee," as they contend, or akin to "independent businessman," as the plaintiff contends.

While I do not like to make words a fetish and be tied to nomenclature, ultimately when we come to deal with these matters we bear in mind that courts do not depart from common law categories. And you gentlemen know what happened to me in another Standard Oil case, the Soldier case, Standard Oil against the United States. My friend used to be my favorite litigant since I have been on the bench, in one capacity or another. In that case a Standard truck had run into a soldier who was standing at Sixth and Figueroa, early in the morning, waiting to cross and the truck injured him, and the Government, because they had several millions of dollars worth of claims in similar situations brought a suit.

Just as my luck would have it, I drew the first one in the [fol. 1886] United States of America, not only the first one in the District. Perhaps I ought to be glad that I tried them because that is what makes being a judge interesting. There are a lot of dull things about being a judge, as you all know.

The amount involved was only $190 and that $190 lawsuit went straight to the Supreme Court of the United States, because I held that there is not any reason why, if an employer can recover from a third party tort feasor who injures the employee, can recover the loss to the employee of the wages he had to pay and for the cost of hospitalization, if a parent can recover for a tort to a child, as he could at common law, I could not see any reason why this relationship between Government and soldier, just like the relationship between sovereign and soldier, could not come in the same category. And I held that the Standard Oil was liable for $190. The case went to the Supreme Court of the United States and only one man on that court—I was disappointed. I thought at least some of the judges who are classed as liberal will follow me in establishing a new category, but one of the most liberal judges started out right at the beginning—you know, whenever they begin that way and start to compliment the judge, you know you can say "Kiss goodbye to the case." But it started out and the late Judge Rutledge, a very, very brilliant man, started out: "We are asked to [fol. 1887] establish liability in a relationship which has not been recognized by the Congress," by which he meant that unless you have Congressional legislation we are bound by the common law rule categories, and despite the fact you cannot see any reason. You ought to read my opinion on it. [fol. 1888] I even brought in a lot of paper talk about natural law, to see how effective natural law is to decide special cases. Also, 20 years ago I sent in an article on natural law to the Los Angeles Bar Journal, but they were not interested in it at that time. Now everybody talks about natural law, and the Archbishop is even holding a seminar here on natural law, so I devoted quite a lot of thought to that, to sustain my contention that here was a condition of the type which you ought to recognize, because soldiering is an old art, and there exists a relationship between the soldier and the government, and when the government is liable, you

would have to pay the soldier's salary, because you cannot dock a soldier's pay, but I say when somebody injures the soldier the tortfeasor ought to be held liable. But the Supreme Court says nay, and Mr. Justice Jackson is the only one who agrees. He couldn't see any reason why in England, where the common law originated, they couldn't hold a third party liable for torts to a soldier and allow the King to recover. In England, which originated it, he couldn't see any reason why it should not be recognized.

Nevertheless, we are more hidebound by patterns than England which gave us these patterns.

So there is an illustration how sometimes courts, even in the plainest cases, will refuse to depart from categories which are well established in law. We have to bear that in [fol. 1889] mind. At the same time we have to bear in mind the admonition of the court, especially in the Masonite case, that ultimately the relationship established between the supplier and his outlet is not to be changed by the terminology which technical lawyers may have given to it rather than by the reality of the situation. And if we find a situation that shows a relationship comparable to employer and employee, then the mere fact that it does not have all the characteristics of employment should not prevent us from characterizing it as such. If we find a relationship of lessor and lessee, we ought to so characterize it. If we find one that has most of the characteristics of independent contractors, so that the people are independent businessmen, we ought to so characterize it.

I think earlier in this case I referred to one of my early decisions, the Owl Drug Company case. When I first became a judge of this court, I was put in charge of the Owl Drug bankruptcy in Nevada, and one of the problems in the Owl Drug Company case is known as the Slessinger decision, and in that case I was called upon to determine under the bankruptcy law whether a certain relationship was that of landlord and tenant. The Owl Drug Company had sold space in their drug store. In modern drug stores you will find they sell everything but drugs, and you have to look in the back to find a sign reading, "Prescriptions," after you get [fol. 1890] through the baby buggies and the late paper novels and the lunch counters. But, be that as it may, they sold them space, and it wasn't the ordinary type lease.

They didn't even call it a lease. They called it something else. I had to determine whether it was a leasehold under the old bankruptcy law, because there were certain rules relating to liability for rents in bankruptcy, whether a leasehold existed or not.

It was argued very strenuously that the relationship did not have any of the earmarks of a lease. It didn't have a specific term, because it was terminable at will, just as some of these are terminable, and so I analyzed the thing. I said, "Let us grant that it hasn't all the characteristics, nevertheless this is a relationship which has developed out of present contingencies," and I decided the case accordingly. Incidentally, since that time that case has been used in at least half a dozen case books dealing with bankruptcy, and such relationship.

Now, I am referring to this again, and I think I have said this before, to point to the fact that in these cases facts are very important. It is absolutely necessary that they be brought out through a relation of the facts and not through a generalization and general statements.

Mr. Somerville: Yes, your Honor. That I will endeavor to do.

[fol. 1891] The Court: You will remember when I brought this up last week, I think it was Mr. Paradise or Mr. DeMartini who said in answer to a question on my part that they are not contending that these L-O stations were not under their control, that they claimed they had a right to control them because the relationship there was that of ownership on their part, and the fact that the people there were not employees, were not on their social security cards, carried their own liability insurance, and the like, was, in their opinion, insufficient to deprive them of such rights as are incidental to ownership.

So in view of that fact it seems to me that from now on we ought to at least keep from piling up a lot of evidence showing what they did with L-O stations, when they say, "Why, certainly, we did it." Let me decide on the basis of the pattern that is developed whether they are correct in applying the relationship, or whether you are, and we have enough in the record now to base a finding as to what they are.

It may well be that they may not offer evidence to contradict some of these witnesses as to what they told L-O dealers, either at the beginning or when they caught them bootlegging as it were.

Mr. Dixon: I would just add this, or state this, your Honor: that the government is endeavoring, wherever it presents a witness who testified concerning an L-O arrange-[fol. 1892] ment, to have that witness add something of a different type or nature than the previous witnesses dealing in that category have testified to. But, as your Honor has stated, there is a question there as to what is the relationship, undoubtedly, and if the evidence does not add something to aid the court, then we do not want to present it to your Honor. We will follow that, your Honor.

The Court: I am not criticizing you. I am merely saying that in view of the issues which are developed now, at the present time, I am going to be a little stricter in observing the rules of evidence, because I think as to some of these the pattern is already there, and as to the others, as to which the great dispute exists, and that is as to whether what they call the operator stations—let's not call them "independent," but "operator stations" instead of leased stations—the question as to those is whether either on the contract, the tie-ins through the painting of the station, or the oral instructions they exercise control.

In other words, here is the way the law suit stands at the present time: As to L-O stations their contention is that they exercise control because they own the stations and the men there are in no better position than if they had been their salaried employees. Then as to that type of station the question then is as to what the relationship is. As to the other two types of stations, and let's refer to them as [fol. 1893] the operator station, as distinguished from the leased out stations,—as to the operator stations their contention is that they were independent, and, as a matter of fact, neither in the contract nor through oral suasion did they control them. I am not saying but what they may even admit there was some oral suasion to be brought in, and some of the witnesses did say that they tried to impress upon them it would be better if they just handled their products, but the contention of the defendant as to those is that they were independent, and they did not exercise

control. So, you see, the manner of proof, as it stands now, is entirely different as to their two categories.

Have I stated your position correctly, gentlemen?

Mr. DeMartini: Yes, your Honor. May I make one statement so as to avoid confusion. You referred to the second type of station as an operator station. We have referred to it throughout the trial as the dealer station, and the L-O as the operator station. We use L-O as synonymous with operator station.

The Court: That is my error then. We will correct that. That is all right. I forgot about the follow who brought in "new dealer."

Now, let's get back to the topic you are talking about.

By Mr. Somerville:

Q. We are talking now about the dealer station. You [fol. 1894] understand now what we mean by "dealer station"?

A. I do, yes.

Q. In the dealer station the dealer would either own the property, or lease it from someone other than Richfield, would he not?

A. Yes, he could own it or lease it, either one.

Q. That is right. Now, in connection with the execution of the sales contract and the painting agreement with any dealer, did you, as a part of the negotiations, exact any promise on the part of the dealer that he should deal 100 per cent in Richfield products?

Mr. Paradise: I object to the question on the ground it calls for the conclusion of the witness, and for a lack of foundation.

Mr. Somerville: I am asking what he did.

Mr. Paradise: Yes, but I think we should have a foundation as to time and place and persons present.

The Court: Read the question. I think this is just merely—I don't like the expression "preliminary question," but I think this is a question which merely directs the witness' attention to a particular situation and may not be objectionable because a foundation will be laid if there is an answer. Will you read the question, please?

(The question was read.)

The Court: Overruled.

[fol. 1895] The Witness: Well, the only way I could answer that, that was what we tried to do, but one dealer might object strenuously to throwing out a lubrication set-up he had, which might be Pennzoil, or some other oil company.

By Mr. Somerville:

Q. Mr. Bradford, you did execute a number of these contracts during this period?

A. That's right.

Q. Could you give us any approximate number? Do you have any idea?

A. Well, I would imagine in the Portland branch, there would be an average there that will expire at different times, but always during the year there are renewals. The bulk of them are renewals. There are a few new ones, because you will lose an account once in a while, and if you don't pick up some as you go along, a branch is running behind, but the bulk of them were renewals.

Q. Now, in connection with that, are painting agreements executed concurrently with the sales contract?

A. Yes.

Q. Then subsequently might there be a painting agreement entered into without a re-execution of a sales contract?

A. Well, I don't know of a case where we did that, offhand. We would draw the whole deal up at once.

Q. Pardon? I didn't hear your answer.

A. I said we would draw the whole deal up at one time, [fol. 1896] and call it a sales and paint——

Q. What was the usual period of time involved?

A. Well, we didn't ordinarily want to go over five years, and we didn't want to go under two years, but five years was a standard time on an ordinary unit. Sometimes for some reason we didn't want them that long.

Q. And at the expiration of that time, if you wanted to renew it, you would continue on with a new agreement, a new sales contract and painting agreement?

A. We would write a whole new agreement, yes.

Q. Now, normally, how often does a station need paint?

A. Well, that involves considerable argument. The dealer

might claim he needs paint every year, and the company might claim it needs paint every two years. We were in an argument almost every spring on some stations.

Q. Now, I would like to know, Mr. Bradford, in your activities, how these painting deals were handled. First, you would determine whether a painting job would be allowed, or if a new painting agreement would be entered into?

A. You understand, in the first place, Mr. Somerville, that painting agreement would be for the same term as your sales contract. Then we would paint the station when it needed a paint job. You wouldn't sign a new paint agreement every time you painted a station. You could paint a [fol. 1897] station four or five times on the same paper, existing paper. We just decided it. I, as the branch manager myself, I made my own paint requisitions early in the spring so that Seattle wouldn't get ahold of all the money, that we would have some down there.

The Court: Then you have the fight, Seattle fights Portland, and Tacoma fights Seattle.

The Witness: So I would get those early in the spring, and in using my judgment, I had an assistant division manager right there, and he had to approve them, too.

By Mr. Somerville:

Q. And who was that?

A. Mr. Hutchinson. And then we sent them to Seattle to the division manager, Mr. Kirby, and he either approved them or rejected them, turned them back to us if he wasn't going to paint a particular station.

The Court: But regardless of whether the paint was renewed or not, the painting agreement was tied to the—what do you call the other agreement?

The Witness: The sales agreement.

The Court: —the sales agreement, so that between the two you would continue to sell him, and he would continue to carry the banners of Richfield?

The Witness: That's right.

The Court: Isn't that true?

The Witness: Yes.

[fol. 1898] By Mr. Somerville:

Q. Calling your attention to paragraph 1 in the painting agreement we referred to a while ago, dealing with:

> "That dealer shall remove from the surface of the service station which is to be painted all signs and insignia, and upon completion of the painting of said service station by Richfield shall not place upon or over the painted surfaces any advertising sign, trademark, insignia or any other matter without first procuring the consent and approval of Richfield,"

was this a requirement that you exacted of the dealers in connection with their getting a paint job?

Mr. Paradise: I object to the question. Counsel is asking a question concerning a provision in the written agreement. If he is asking concerning conversations, we should have the foundation. If he isn't, this is purely argumentative.

Mr. Somerville: Permit me to withdraw that question.

By Mr. Somerville:

Q. Calling your attention to that particular paragraph, now, there were occasions when the dealer would request a paint job; is that correct?

A. Yes.

Q. Now, in those situations did you ever have dealers who might be displaying competitive signs, that is, oil signs [fol. 1899] or some other signs advertising a product directly competitive to an approved Richfield product or Richfield lubricating oils and greases?

A. Yes.

Q. Now, in that sort of an instance would you permit a painting job so long as that situation continued to exist?

Mr. Paradise: I object for lack of foundation and as calling for the conclusion of the witness, and not asking for conversations.

Mr. Somerville: I am asking the witness what his own action was with respect to all of these situations that arose.

The Court: Yes. Overruled. Go ahead. The question is what you did, not what you thought, what you did under those circumstances.

The Witness: Well, I would go up to a service station, and to make the paint requisition, the first thing I did look for was competitive signs, because I had to take a photograph of that station, and if that was attached to the paint requisition, it would be very, very poor business on my part to send a paint requisition to the office with a photograph of the station showing competitive signs overlaying our paint, even a fence, and we might paint the fence, or superbuildings, or anything.

The Court: In other words, your paint job was not an [fol. 1900] agreement to keep any station in good condition, but it was to keep a station which carried the Richfield banner? Isn't that true?

The Witness: Well, that's right, yes.

The Court: And the requisitions had to show that what you were seeking paint for were stations which were painted "Richfield,"——

The Witness: That's right.

The Court: And carried no competitive signs or banners, as you call them; isn't that true?

The Witness: That's right, yes, sir.

By Mr. Somerville:

Q. Did you ever have a situation arise in which you told the particular dealer to remove competitive signs?

A. Yes. I would say most of the time on those dealer accounts there would be something there objectionable to photograph.

Q. Were there ever any occasions in which you requested the dealer to remove competitive products in order to get a painting agreement?

A. Yes. That was, I would say that was our opportunity to move the competitor out of there.

Mr. Paradise: I move that be stricken.

The Court: Oh, no. Go ahead.

The Witness: In other words, if we could remove a com- [fol. 1901] petitive oil in conjunction with giving a man a high-priced, expensive paint job, sometimes which involved large superbuildings, and that runs into a lot of money, why, the way we felt and the policy of the company, as it has been handed to me, was that we were main-

taining a beautiful unit and kept it painted not for some competitor to sell his merchandise through, but any time we could move any of that merchandise out of there, that was my job, yes.

By Mr. Somerville:

Q. Now, let's go upstairs to Mr. Hutchinson and Mr. Kirby. Did you ever receive any instructions or have any conversations with either of those men concerning this particular paragraph in the painting agreement, regarding the placing of any advertising over painted surfaces without the consent and approval of Richfield? Did you ever have such discussions?

A. Well, they were on notice——

Mr. Paradise: That question calls for a "Yes" or "No" answer.

The Witness: Yes.

By Mr. Somerville:

Q. When did such discussions occur, to the best of your memory?

A. You mean a particular one?

Q. Well, yes, if you have a particular one, let's have it.

A. Well, the one that I had difficulty with getting a paint [fol. 1902] requisition through was Kowalski Brothers on North Lombard Street.

Q. Who was the conversation with concerning this station?

A. Well, there were several conversations between Hutchinson and myself, and Hutchinson and myself and Mr. Kirby I would say a time or two, yes.

Q. And what did Mr. Kirby say to you?

Mr. Paradise: Will you fix the time of this meeting?

The Witness: Pardon?

By Mr. Somerville:

Q. Could you fix the approximate time of this, sir?

A. Well, it wasn't in '43. That was renewed—it would

be—it was either the spring of '44 or '45. I am not positive. I think it was '44.

Mr. Paradise: Will you fix the place?

By Mr. Somerville:

Q. Where did these conversations occur?

A. In Mr. Hutchinson's office in Portland.

Q. Before going into what the conversation was, had Kowalski been handling competitive oils?

A. Yes.

Q. Did he have competitive oil signs on the premises?

A. Yes.

Q. All right. What were the discussions that you refer [fol. 1903] to?

A. Well, the discussion originated that it was a very expensive paint job, and they wanted it painted. We had, you might say, two ways out. One, to paint it each time they wanted it, which might be -very year, or we might *hang* tough and paint it every two years. But if we were going to paint it every year, why, we certainly wanted the co-operation of the dealers, the three brothers there, to give us a break on the motor oil with the thought in mind we would offset this expensive paint job. It was a large building, a stucco building.

Q. Did Mr. Kirby then allow the paint job at that time?

A. He eventually did, yes.

Q. Well, did you convey any word back to Mr. Kowalski?

A. Well, I went out there and told them what I was up against, that I was in the middle, and I made some headway on the motor oil; not much.

Q. Did you tell him to get rid of the motor oil?

A. Well, you don't tell those fellows to get rid of anything. You have to sell them.

Q. Did you tell them that it had anything to do with his ability to get a paint job?

A. I told him, yes, if he would program a little better on oils and batteries and TBA, we had no trouble, of course, [fol. 1904] with gasoline, why, I would go all out on the paint job.

Q. Now, in connection with your own activities, I am asking you whether you would insist upon these competitive

signs being removed from dealer stations, whenever that might occur?

Mr. Paradise: That does not fix the time and place.

Mr. Somerville: I am talking about his general activity.

Mr. Paradise: I submit that that question is so vague and ambiguous, it is meaningless without relation to particular facts.

Mr. Somerville: This man is telling the way he reacted to this.

The Court: All right. Overruled.

The Witness: My answer to that, Mr. Somerville, is that it is awfully hard to pin it down to particular cases, because you have different circumstances. One year your sales and paint agreements might be expiring. Our competitors knew when they were expiring, and, why, at that time we would do a lot of things for a dealer, but if I was able to sign him up on another five years of sales and paint, the competitor would go around looking around for somebody else's account, and then we weren't so lenient perhaps. But you would get a man to take down a sign, and very often you would go by, and he would have it back up again.

[fol. 1905] By Mr. Somerville:

Q. Now, what did the painted surfaces usually include? Will you explain that?

A. Well, all exposed surfaces, interior and exterior. That did not mean we painted them all, but the requisitions called for—it was blocked off on quite a long form, a legal-sized form, and everything was listed right down there, even the lubrication equipment, but that didn't mean we painted that each time. But you could figure out what needed paint, and you had to inspect the station and equipment and see what needed paint.

Q. Now, the service stations had fences around them, ordinarily?

A. Well, yes, that is a common practice up there to have fences around the stations.

Q. Were they painted in Richfield colors?

A. Most dealers were very insistent that the fence be painted. You wouldn't want to leave an unpainted fence with a new paint job on the super-facilities.

Q. Did you, in your activities, permit these dealers to display the diamond-shaped Goodyear signs, or any other signs advertising approved TBA products?

A. Well, you asked if I permitted it?

Q. Yes.

A. Yes, certainly.

Q. In your activities, did you ordinarily attempt, or [fol. 1906] did you instruct them to put up Goodyear signs?

A. Well, he would have no instruction to put up a sign unless he had Goodyear tires to sell. Goodyear would put the sign up there, and we were very happy to see it up there, yes.

Q. You never told him to take those signs down?

A. Not the Goodyear, no.

Q. Would that situation be true of a sign advertising competitive products, say, on the fence?

Mr. Paradise: That is speculative.

The Court: No. Overruled.

The Witness: Well, that sign, as I say, that sign would have to come down, or, to send it in to Mr. Kirby with a competitive oil sign out there on the fence, why, I don't know of any specific case that ever happened that way, but I would assume I would get it back, but I couldn't recall it.

By Mr. Somerville:

Q. Would there be any portion of the service station premises where a sign would be permitted by you?

A. A competitive sign?

Q. I mean, is there any part of the station that isn't painted where you would permit a competitive sign?

A. Well, we had what we called an A-board, that we posted ourselves, and many of these dealer accounts, they would post something on that, and we would object [fol. 1907] to that and eventually pick up the A-board and take it down to the plant, but there was no instruction as far as permitting the man that owns that station to not put up a sign. I didn't have anything to say as to what he would put up or what he couldn't do. It was my job to sell him on the idea to take these things down, and if I couldn't do that, why, he kept on handling the product.

But at the time the paint requisitions went in, why, I never had any trouble with the dealers, for them to take the signs down long enough for me to take a photograph, at least.

The Court: In other words, the only way of penalizing them, and I am discussing the general cases too, and if you didn't like it, and you may have objected to it, but the only way that you had of making your desire followed was when it came to renewing the paint job, and then you made known to them that you did not like the other sign, but so long as he kept taking your products, you didn't do anything about it? Is that what I understand you to say?

The Witness: Well, that's right, your Honor. The time I was involved as a branch manager would be at the painting time, but at the same time there were salesmen calling on that account all the time anyway, that is, under my direction. But I would run into it at the time the paint job would be brought up, and it would be forcibly brought to my attention.

[fol. 1908] The Court: All right. Gentlemen, while there is a lull for the moment I want to call your attention to the case of which I spoke. There are several cases of that type in the same volume. I learned bankruptcy law very fast in 1935. I took office on the 5th of September and I showed up in Nevada on the 1st of October and filed these opinions.

The case is In re Owl Drug Co., 12 F. Supp. 439. The case is also reported in the American Bankruptcy Reports, 303 Bankruptcy Reports, the new series, 692. I still approve the language I used there. Some of it may be applicable to the discussion here when we get down to arguing, so I want to read just one or two paragraphs from it.

As I told you, the question was whether it was a lease and, if it was a lease, it was not a provable debt in bankruptcy under the old bankruptcy law so far as the nonexpired terms was concerned. It was too contingent. And this is what I said. I will pick out two or three short paragraphs from the opinion. It was argued that it was a license that they had control over the management of the conduct of

the business, and that he was really a mere licensee. And I held that it was a lease, and this is what I said: —I am reading from page 442—

> "The line of demarcation between leases and licenses is not always easy to draw. At times, we find courts calling an agreement a license in order to confer upon [fol. 1909] upon the parties to it certain rights which would not be theirs were they considered parties to a lease. At other times, courts resort to the law of landlord and tenant in order not to subject the parties to the arbitrary penalties incident to a license."

Then skipping to the bottom of the page:

> "By the terms of the instrument under consideration here, the bankrupt acquired the right to occupy a definite space in the claimant's store for a definite period of years, for which he paid a rental measured in terms of percentage of sales, with a minimum guaranty to the lessor. Definiteness of space to be occupied is one of the criteria for determining that an instrument is a lease. Baille v. United States, supra.
>
> "It is true that the claimant exercised certain supervisory powers, but these were powers made necessary by the nature of the relationship, and by the fact that the business conducted upon these premises by the bankrupt had to conform, in order to avoid friction, to certain common arrangements applicable to the entire store. These arrangements do not detract from the estate which the bankrupt acquired by this instrument."

Then skipping, after analyzing some of the clauses in it, I said, page 443:

> [fol. 1910] "It may be conceded that the designation of an instrument as a lease by the parties to it may, of itself, be inconclusive. Its nature is to be determined from a study of its conditions as a whole.
>
> "When so studied, the instrument under consideration has all the earmarks of an instrument creating a leasehold interest."

A more lengthy discussion and then, in talking about the criteria, distinguishing from other relationships, I said, reading from page 444:

> "Clearly there is no mere license. Nor is there a partnership or joint adventure here, because the lessor does not share in the loss. It is true that a joint adventure or partnership appearing, a sharing of the loss may be inferred by the court, which may even determine the manner of sharing the profits where the agreement is silent. But the lessor has surrounded himself with such a protective armour, so far as any liability for any act of the lessee is concerned, that it would be impossible without doing violence to the instrument and making a new contract, to infer an obligation to share in any loss. The most substantial consideration which the lessor receives under the instrument is his rental in the form of a percentage subject to a minimum guaranty to insure what, no doubt, the lessor thought was a fair rental by reference to the [fol. 1911] sales made by it during the previous year when it conducted the department itself. It is true that the lessor sought to integrate the department into its store; but such integration was only for the purpose of having it, and the business to be conducted in it, conform to its general policy. Such a requirement was an absolute necessity if friction between the lessor and the lessee was to be avoided. But the supervisory powers which the lessor retained were not of such a nature as to deprive the lessee of that exclusive possession of a definite portion of the premises, the situs of which could be changed by the lessor upon thirty days' notice to the lessee and upon his substituting a site equal in area, and of which he could not be deprived except for breach of the conditions—which is the characteristic of a lease."

Then more discussion, and this is the concluding paragraph which applies to any kind of a lease.

> "In the complex civilization in which we live, in determining the relationships created by written instruments we must bear in mind their essentials, in the

light of modern requirements. *Restrictions in the* rights of tenancy which do not affect its fundamentals should not be interpreted as destroying the relationship. One who leases office rooms in a modern office [fol. 1912] building subjects his right of occupancy to many supervisory rules by the owner of the building. The owner furnishes many of the facilities, and even the tenant's ingress and egress to and from the building may be under the control of the lessor, as is the case in multiple story buildings having elevators. The lessor may even retain the right to object to persons having access to the building. And yet such restrictions and conditions, and others that might be adverted to, do not affect the status of such occupant as a lessee. In like manner, the status of the occupant of an apartment in a modern apartment building as a tenant is not changed by the mere fact that the apartment building owner may retain control over the common halls, corridors, and elevators, may provide the heat, light, refrigeration, and other utilities, and may even regulate the race of persons to be employed by the occupants as servants.

"We conclude that the relationship created by the instrument under discussion is that of landlord and tenant."

So you can see as far back as 1935, in determining what relationship was created we went beyond the wording and tested it by the indicia which we found in the instruments themselves.

[fol. 1913] And that is what ultimately we will have to do here as to every one of these three groups, regardless of what you call them or what the parties to the agreements call them.

All right, had you finished?

Mr. Somerville: Not yet.

The Court: Let us take a short recess and give you time for more thoughts and more questions.

(Short recess)

I wanted to tell counsel that Judge McCormick has been away and the result has been that I have had orders and

things to do in between which I ordinarily do not do. So sometimes I take longer for a recess than I would ordinarily take.

All right. Let us go on and finish with this witness.

By Mr. Somerville:

Q. Mr. Bradford, what employee under your supervision had any jurisdiction or supervision over the dealer type stations?

A. Well, during my branch managership there were possibly six or seven. There was a man named Ford, a man named Scollard, and Williamson, Parish, and Brown.

Q. What titles did they bear?

A. Salesmen.

Q. Salesmen?

A. Yes, sir.

Q. Did you have any meetings with your salesmen or [fol. 1914] merchandisers with respect to the particular problems encountered in service stations?

A. We met each morning at 12th and Sandy.

Q. 12th and Sandy, is that a service station?

A. It was an office and super-station that we owned the improvement, and we had an office in back. That was our up-town office.

Q. Who would be present at those meetings?

A. Well, there would be the salesmen and merchandisers and myself, and any representatives from the division office of Los Angeles or whoever happened to be there.

Q. Would the salesmen report at that meeting particular instances in which a dealer type station might have signs openly displayed, competitive signs?

Mr. DeMartini: I object to this as leading, your Honor, and suggestive.

The Court: Yes, it is.

By Mr. Somerville:

Q. At these meetings what instructions, if any, did you give to your salesmen with respect to competitive signs on dealer stations?

A. Well, that of course would just be one of the things discussed. It was a problem that we lived with from day to

day. Oftentimes I might get some note from the assistant division manager, Mr. Hutchinson or maybe one of the officials from Los Angeles seeing an unsatisfactory condi-
[fol. 1915] tion, and it would be brought forcibly to our attention and we would go over the thing and see what we could do with it. Ordinarily it was just one of the problems that we lived with. A salesman knew that he was graded more or less on his success in eliminating competitive merchandise out of the station. That was quite a boost for a salesman.

Q. With respect to the sales contract which the dealer enters into the maximum and minimum gallonage figures are specifield there, are they not?

A. That is right.

Q. Did you have anything to do with the maximum and minimum gallonage figures specified?

A. Yes.

Q. Do you know how they were determined?

A. Yes.

Q. What was the basis of determining the minimum and maximum figures specified therein?

Mr. Paradise: Objected to for lack of foundation, unless counsel ascertains first that the practice was standard and he is not talking about isolated instances, and whether there were instructions on this.

The Court: All right.

By Mr. Somerville:

Q. Was the practice standard?

A. Yes.

Q. First of all, did you have final authority?

[fol. 1916] A. Well, if that contract was drawn in my office it would go into the division office for final—it was signed, in other words, executed by Richfield in the division office.

Q. Did you receive any instructions from the division office or from Los Angeles concerning the formula to use in determining the maximum and minimum figures?

A. Well, that was in the Division Managers' bulletin, and you would have to go back a considerable distance to

find it. But there was a bulletin to that effect, yes, that had been followed for years.

Q. What was the basis for determining the minimum and maximum?

A. Well, we had two propositions. One is, if you are renewing the existing unit and you knew the gallonage at the end of five years, if that was the time of the contract, the term, you would take an average on the station and, if your old minimum was too low, why, you would adjust it on your new one. On the other hand, if you were taking a competitive unit, why, then you just had to calculate the best you could, and oftentimes, most times, we ballooned those up a little because we wanted to get the account and we wanted to make it look as good as we possibly could.

Q. What relationship, if any, would the minimum quantity specified have to the existing gallonage of the station? [fol. 1917] A. What effect? I didn't get the first part of your question.

Mr. Somerville: Would you read that question back, Mr. Reporter?

(Question read by the reporter.)

A. Well, we would set that minimum in a round figure. It might average 10,635 gallons and we would put a minimum, I would say, in there of 11,000 in round figures.

Q. Then what would the maximum be in that situation?

A. Well, it is supposed to be 20 per cent more.

Q. 20 per cent above the minimum?

A. That is right.

Q. In the painting agreement there is a certain amount specified as to the estimated amount of paint job, is that correct?

A. Yes.

Q. Were there any instances to your knowledge where a dealer, his sales contract might be terminated before the expiration of the five-year or two-year term?

A. Yes, some of them were. We lost some.

Q. How would you determine who would pay the cost of painting?

A. Well, if an account went competitive immediately following the new paint job, why, the branch office would

[fol. 1918] get a statement from the regional accountant billing this dealer for the paint job. If it was, say, halfway between, if we were painting that station once a year and the paint job was six months old, why, they would bill him for half of the cost.

Q. During the period that you were branch manager in Portland was there a new TBA distribution set up?

A. Well, it was not new. It was radically changed and set up on a more definite basis than the old one.

Q. Was distribution at that time made to TBA distributors?

A. We had there TBA distributors prior to this reorganization of that operation, but they were dealer accounts. One was a dealer account and two were L-O's. So we set it up and took a dealer from 45th and Hawthorne, a man named Ed Radke, and took him out of the station and put him in TBA and nothing else. He leased the store building down on 37th and Hawthorne.

Q. Did you indicate——

Mr. Paradise: You are talking there about an L-O dealer, are you not?

The Witness: He was an L-O dealer, yes.

By Mr. Somerville:

Q. At any time during this period did you receive any instructions from any of your superiors concerning whether or not competitive TBA merchandise could be sold to Richfield stations, or, I mean to stations handling Richfield gasoline?

[fol. 1919] A. Do you mean any instructions as far as the TBA distributor is concerned or——

Q. Well, any instructions as pertaining to the area the TBA distributor would service or the accounts that he would sell?

A. Well, this was strictly approved items on the TBA.

Mr. Paradise: The question called for whether or not you received instructions.

A. Yes, I did.

By Mr. Somerville:

Q. And who did you receive instructions from?

A. Well, we had a three-day meeting. George Miller was there and J. T. Foster was there, Mr. Kirby was there, Hal Hutchinson was there, Art Carnine, regional accountant was there, Bud Austin, regional credit manager, was there.

Q. Where did that occur?

A. I believe that was in the Benson Hotel in Portland.

Q. And what was said with respect to the TBA distributor?

Mr. Paradise: Will you indicate the time, please?

By Mr. Somerville:

Q. Did you indicate the time on that? About when did it occur?

A. I believe that was in the fall of '43.

Q. What was said and by whom concerning the TBA setup?

A. Well, this went over a period of three days and the proposition of appointing a TBA distributor or two TBA [fol. 1920] distributors, which is what we thought we needed, and the whole operation was threshed out right there, who these distributors would be. And Goodyear boys were there and we were taken on a trip into the Goodyear warehouse and shown merchandise that we had never heard of in the oil business before. The whole thing was threshed out there on a hundred per cent, strictly a 100 per cent exclusive basis, you might say.

Q. Are you referring now to the sales or what the dealer-operators would be permitted to handle?

A. Well, yes; and also, what the TBA distributor would be permitted to handle. In other words, if we kept the unapproved merchandise out of the TBA distributor's hands, why, the problem was half licked. The dealer then would have to get the off-brand stuff somewhere else. The main——pardon?

Q. I did not mean to cut you off.

A. The main effort there was to set up a TBA distributorship with a TBA distributor that we knew would program, you might say, and we did not have to police his operation,

that we knew that this man was handling approved items and nothing else. We did not need a police force.

Q. Was there any distinction with respect to that policy in its application to dealer stations as opposed to L-O stations?

A. Well, of course, we all knew that we had to sell that [fol. 1921] to the dealer account. That was certainly in the program, yes.

Q. These meetings that you held as branch manager every week at this service station on Sandy Boulevard would you review the reports of sales that TBA made to dealer accounts and to L-O accounts?

A. Well, at the close of each month we would get certain reports. The 200 report we called the service station. The 200 report was the operation of that service station dealer and L-O. They were broken down in sheets. The merchandiser, his stations would be on one sheet, and then we had another report from the TBA distributor on his sales to all the stations, broken down by territories. And my job was to go over and pick out the weak operation, and those reports came to me from Mr. Hutchinson ordinarily. He was quite a letter writer. Ordinarily his letters would be very much in detail. There would be page after page, and he picked out maybe—they were the weak ones I got, and he would go into detail what he thought was wrong with the station. And he was a branch manager there, himself, and he certainly was in a position to put his finger on it. Then our job at 12th and Sandy that, of course, occurred, I imagine, about the third of the month, because we got those reports out right away, and we would go over that. I would go over it with the merchandisers collectively and then probably individually afterwards. And the problems, if the station was on poor operation, it was a problem we had to do something to lick it some way.

[fol. 1922] By Mr. Somerville:

Q. Calling your attention to a service station operated by Milton Boyer at Northeast and Lombard and Albina, Portland, Oregon, are you familiar with that particular dealer?

A. Yes, sir.

Mr. DeMartini: Is he an L-O dealer?
The Witness: An L-O unit.

By Mr. Somerville:

Q. At that particular station, was that operator selling any competitive products at any time?
A. Yes, we had trouble with Milt Boyer.
Q. When did this occur, approximately?
A. Well, as far as my experience was concerned, he was handling off brand merchandise in there when I became branch manager.
Q. And what did you do about it?
A. Well, he was eventually checked out. The merchandiser found a new operator and put him in the station.

The Court: Your policy generally was in the case of these L-O stations, that if they did not conform after several discussions or attempts to persuade them not to handle it, you checked them out, as it were? You found another operator to substitute for him?
The Witness: That's right, your Honor. Of course, you couldn't promiscuously check them out. The problem was [fol. 1923] to find someone who did a better job than he was doing.
The Court: That is right. You didn't check him out until you found someone who was more certain of complying?
The Witness: That's right; and when we would check him out, we didn't check him out until we could improve the situation. Otherwise, we would let him stay there until we could improve it.

By Mr. Somerville:

Q. In this particular instance, did you have the final authority to terminate Mr. Boyer?
A. Well, as far as the actual mechanics of the operations, yes. However, as I say, all of our deals were executed in Seattle by the division manager's clerk.
Q. However, did you recommend that Mr. Boyer be terminated?
A. I am not positive on Mr. Boyer just how——

The Court: Did Mr. Hutchinson take the final action?

The Witness: Well, we generally discussed it in the office before we would check them out. You understand, this man Boyer was an old-time dealer, and we tried to be pretty sure of what we were doing. We were very careful not to check out an old-time dealer, for obvious reasons. But I think that Hutchinson and I probably talked about Milt Boyer, along with a few others. Yes, I would say so.

By Mr. Somerville:

Q. Did the reason for his termination have anything to [fol. 1924] do with his handling of competitive products?

A. Well, yes, that was primarily the reason.

Q. Now, calling your attention to a service station at 23rd and Burnside in Portland, Oregon, operated by Walter Edgar, are you familiar with that station?

A. Yes, sir.

Q. That was handled by Mr. Edgar during the period you were branch manager?

A. Yes, sir.

Mr. DeMartini: Is it stipulated that Mr. Edgar is an L-O?

Mr. Somerville: Yes, sir.

By Mr. Somerville:

Q. Now, at this particular station did Mr. Edgar program on TBA, to your knowledge?

A. Not too well, I would say.

Q. Did you receive any instructions or any complaints from any of your superiors concerning this man's handling of any competitive products?

A. Repeatedly.

Q. From whom?

A. Mr. Hutchinson.

Q. Repeatedly during what year?

A. 1944, starting—well, I don't know just when it started. I imagine somewhere shortly prior to the first of the year, 1944.

[fol. 1925] Q. Would you tell us what those complaints were and the circumstances under which he made them?

A. Well, it so happens that Mr. Hutchinson resided in the Envoy Apartments right back of this station, up, I

think, on the fourth or fifth floor, and the front window of his apartment looked right down on this operation, and Mr. Hutchinson is a Richfield Oil man twenty-four hours a day, and he became very unhappy on Mr. Edgar's operation, and repeatedly I would go to the office and I would get down there somewhere around noon, ordinarily, after the sales meeting, and I would often find a note on my desk on Mr. Edgar's failure to handle Goodyear tires. He was calculating how many tires Mr. Edgar must have sold by watching his operation, and he wouldn't sit up there in the daytime, but the station was open quite late, and the note would give me an estimation on the tires that Mr. Edgar sold as against the number that was sold to Mr. Edgar by the TBA distributor, which, if I recall, would about figure 6 against 75, or something like that.

So one note would complain about that, and then another note, the next one, would complain about the condition of the station, and he even listed them down by one, two, three, four, on down the sheet.

Q. Now, after you received these complaints from Mr. Hutchinson, what did you do about it?

[fol. 1926] A. Well, of course, I got a little rough with the merchandiser a time or two, but that didn't seem to do any good. So I made a few calls on Mr. Edgar myself. That didn't do much good, either.

Q. What was the final outcome of that?

A. Well, the final outcome was that I was instructed to remove Mr. Edgar from the station.

Q. By whom, and when?

By Mr. Hutchinson:

A. That was in 1944, I believe in May. So I requested a termination notice from Seattle, which they were very, very reluctant in sending down. In fact, they made me promise that I would get a 306 signed somewhere during the operation, so that this termination notice could be destroyed and a 306 would be in the file.

Q. A 306 is a mutual termination agreement?

A. A mutual termination, yes. I was successful in doing that. I think I helped Walt to get a stove included in the pick-up, and I did finally get him on a 306.

Q. In getting him on a 306, did you make any promises to him concerning his check-out?

A. Well, I remember telling him as far as I was concerned he could use me as a reference. In fact, I did recommend him strongly for a Richfield station at Hanford, which eventually became the largest Richfield service station in the Northern Division. I don't know whether he was con-
[fol. 1927] tacted or not, but I recommended that to the assistant division manager in Washington, Doc Bagby, who was out of my territory, but had been in Portland prior to that. Whether he contacted Mr. Edgar, I don't know.

The Court: But, at any rate, he went out of that station?
The Witness: He went out of the station, yes.

By Mr. Somerville:

Q. Just one more thing. I hand you a penciled note here, carrying "E. J. Bradford" at the top, dated 4-10-44. with the initials—what are those initials?
A. H T H.
Q. Do you recognize that signature?
A. Oh, yes.
Q. —or those initials?
A. Yes, I do.
Q. Whose initials are they?
A. That is Mr. H. T. Hutchinson.

Mr. Somerville: I would like to have this marked as the Government's Exhibit for identification next in order.

The Court: We will not stop for the cross examination now. We will continue that at 2:00 o'clock.

The Clerk: Government's Exhibit 12, for identification.

[fol. 1928] (The document referred to was marked Plaintiff's Exhibit 12, for identification.)

Mr. Somerville: The government offers this exhibit in evidence.
The Court: It may be received.
The Clerk: Exhibit 12 in evidence.

(The document, heretofore marked Plaintiff's Exhibit 12, for identification, was received in evidence.)

The Court: 2:00 o'clock, gentlemen.

(Whereupon at 12:25 o'clock p. m. a recess was taken until 2:00 o'clock p. m. of the same day.)

[fol. 1929] The Court: All right, gentlemen, let us go.

Mr. DeMartini: Will you take the stand, Mr. Bradford?

The Court: All right, Mr. Bradford.

ELGIE J. BRADFORD (Recalled.)

Direct examination (Resumed).

By Mr. Somerville:

Mr. Somerville: I have an exhibit for identification.

Q. First of all, I would like to ask you just one question, Mr. Bradford. Is this a copy of the notice of termination served on Walter Edgar, dated May 2nd, 1944?

A. It is, yes. He signed it there.

Q. And that is Edgar's signature?

A. Edgar's signature.

Mr. Somerville: May I have this marked next in order Government's exhibit for identification?

Mr. DeMartini: No objection.

The Clerk: That will be 13 for identification.

(The document referred to was marked Plaintiff's Exhibit 13 for identification.)

Mr. Somerville: I move its introduction in evidence.

The Court: All right.

The Clerk: 13 in evidence.

The Court: It may be received.

[fol. 1930] (The document referred to was marked Plaintiff's Exhibit 13 and received in evidence.)

Mr. Paradise: Edgar was an L-O operator?

Mr. Somerville: Yes, sir.

Cross-examination.

By Mr. DeMartini:

Q. Mr. Bradford, what were your duties as an office manager in Portland?

A. In Portland? Well, I was in charge of the office branch as well as the terminal, and credit work, preparing all contracts, following collections, and daily reports. I had about eight, I believe, employees to supervise, a cashier, traffic manager, and clerks of various kinds.

Q. Did you have anything to do with the solicitation of business or the supervision of the solicitation of business?

A. Well, yes, off and on. I had my finger in that kind of work so long that I did a lot of outside work for Mr. Hutchinson.

Q. In 1943 you became branch manager, you testified?

A. That is right.

Q. What date in 1943?

A. I think it was March. I am not sure of the date.

Q. And how long did you hold that position?

A. Well, I think I went into real estate work in '46. I believe that was around March, also.

[fol. 1931] Q. What were your duties as branch manager in Portland?

A. Well, that relieved me of the terminal work more or less, and I took over the sales force, the salesmen and merchandisers, and directed their operations as well as the office operations through the chief clerk.

Q. Did you in that capacity have charge of all sales activities in that area?

A. In the city limits of Portland, yes.

Mr. Paradise: Will you speak a little louder, please, Mr. Bradford?

A. In the city limits of Portland, yes, I did.

By Mr. DeMartini:

Q. What authority did you have with respect to the closing of deals in connection with the amounts to be agreed upon, for instance, under paint contracts?

A. Well, I could only submit them, Mr. DeMartini, to Mr. Hutchinson, who in turn, if he did not approve some docu-

ment that I drew up, why, I would get it back and we would get together on it and send it in to the division office. We never signed anything there except just to sign it as having, as far as we were concerned, approved it, but not to execute the documents, we will say, to the deal.

Q. And who was Mr. Hutchinson at that time?

A. He was assistant division manager in charge of Oregon and Idaho.

[fol. 1932] Q. But I understand from what you have just said that Mr. Hutchinson did not have final authority in this regard?

A. No, he couldn't execute any papers in Portland.

Q. Did he have final authority on determining the amount of painting that Richfield would agree to do for a dealer?

A. Well, I could only answer that this way: Most of our paint requisitions cleared through Seattle all right. The ones that Mr. Kirby did not approve, he sent them back, and when he would come back to Portland the next trip, which was ordinarily every two or three weeks, why, we would bring those up and eventually, before the summer was over, we got most of the stations painted that we originally sent in.

Q. Then, as I understand it, in processing these agreements you would first transmit them to Mr. Hutchinson, who, if they met with his approval, would transmit them to Mr. Kirby, who, in turn had final approval, is that correct?

A. Yes. I had to sign the requisition and Hutchinson had to sign it, and then it went to Seattle for Mr. Kirby's approval.

Q. And Seattle had the final approval on these matters?

A. As far as I know, the division manager did.

[fol. 1933] Q. Now, referring to the subject of paint agreements in connection with the solicitation of 337 accounts, as I understand it, the paint agreement was used only with persons who were in business and with whom you negotiated for the sale of some products; is that correct?

A. That's right.

Q. It is true, is it not, that the painting of these dealers' stations results primarily from the desire and the insistence of the dealer?

A. Not necessarily.

Q. In other words, resorting to common vernacular you don't stuff it down their throats, do you?

A. No. It is pretty well set how often a station will be painted. The location of some station might be such it will look dirty in a year, and another station will go by two years, but I would say by mutual agreement we get along with the dealers fairly well on painting the stations ordinarily.

Q. The dealer does not pay for the painting of the station, does he?

A. No.

Q. The company pays for it?

A. Yes.

Q. And the dealer is interested in securing paint, isn't he, for his station?

[fol. 1934] A. Why, yes.

Q. So that in most cases the discussion with the dealer is as to the extent of the paint that he wants?

The Court: That, of course, is assuming, or that does not refer to the initial contract whereby he becomes a dealer in the first place, does it?

Mr. DeMartini: Yes, sir, that is the time to which I refer.

The Court: All right. I wanted to be sure that you are talking about the initial agreement and not subsequent renewals.

Mr. DeMartini: I am limiting this to the initial agreement.

The Court: To the initial agreement?

Mr. DeMartini: And the negotiation with the prospective purchaser of the products.

The Witness: I didn't understand that either.

The Court: So, you see, you are in good company, or, rather, I have good company.

The Witness: What was the question?

Mr. DeMartini: Will you read the question?

(The question was read as follows:

"Q. So that in most cases the discussion with the dealer is as to the extent of the paint that he wants?")

[fol. 1935] The Court: Remember that we are talking about the initial agreement whereby he puts on the Richfield colors.

The Witness: Well, of course, there are various types of buildings involved. It may be a grocery store with a couple of pumps out in front, and the fellow might negotiate with us, that if we will paint the grocery store we can have the account. In that case our answer invariably would be, "No."

We have had cases where they wanted us to paint a group of auto courts. The answer was, "No."

But a service station, yes. We would have no desire, naturally, to sell our products under Shell Oil colors, or any other oil company.

Mr. DeMartini: I move that that be stricken as a conclusion of the witness.

The Court: Which one?

Mr. DeMartini: His last statement.

The Court: The last statement may be stricken.

By Mr. DeMartini:

Q. So that it was constantly a matter of controversy between you and the prospective purchaser of the product as to how much paint he wanted?

A. No, it wasn't a controversy, ordinarily.

Q. Well, you just told me that in connection with a grocery store a man might want his whole grocery store painted, and you would tell him, "No." Isn't that correct? [fol. 1936] A. And we probably wouldn't get the account. That would be it.

Q. Would a man ever want gasoline, with two pumps in front of a grocery store, and where you insisted upon painting the whole grocery store?

A. Yes, sir.

Q. You insisted upon painting the grocery store?

A. You mean the dealer insist- upon it?

Q. No, you insisted.

A. Oh, no.

Q. So it was the dealer in each case that is insisting upon the greater amount of paint, and not the company?

A. Well, I know a grocery store. As I say, that is not

a service station operation. However, you get that kind of a deal once in a while.

Q. Let's take a service station operation where a man has a big super-unit, and a lot of garages, and things in the back, and walls on the side, would he normally request the painting of all of it?

A. Well, he requests it, yes.

Q. Well, does the subject come up as to whether you want to paint it all, or not?

A. Well, if that was painted white, you could talk him into painting the part that was serving, representing the service station, and let the rest of it go. If it was painted a neutral color, that is what I said a moment ago. You [fol. 1937] wouldn't necessarily have any controversy there, because his present supplier would paint it, the chances are, as much as we would. But he might be fixing to paint a lot of superbuildings, but our policy was, as far as I was concerned, the answer was, "No."

Q. Well, didn't the occasion often arise where you negotiated with the dealer, and the dealer said that he wanted a certain amount of painting done at the station, and you submitted that amount of painting to Mr. Hutchinson, and Mr. Hutchinson refused to approve it, and said, "We won't spend that much on painting that station"?

A. That's right.

Q. And isn't it true that in other instances Mr. Hutchinson approved it, and it was submitted to Mr. Kirby, and Mr. Kirby said he wouldn't approve that amount of painting at the present time at that station?

A. That's right.

Q. Then what would you do?

A. Well, you would go back to the dealer, and you might get the account, and you might not.

Q. In other words, you would——

A. You would compromise.

Q. You would go back to the dealer and say, "We will not do that much painting," isn't that correct?

A. That's right.

[fol. 1938] Q. So, to sum it all up, it was constantly a struggle between you and your dealer to limit the paint to as reasonable an amount as possible?

A. Not in strictly a service station unit, no. We would

paint the entire station, if we took the account, and no question.

Q. But it was constantly a matter of controversy as to the amount of paint that you would put on it?

A. Not necessarily.

The Court: As a good businessman looking out for the interests of the company, you saw to it that you didn't exceed what, in your opinion, was a necessary part of the job; is that it?

The Witness: That is true, your Honor. And, also, if the station was doing, we might say, a large gallonage, why, naturally, we would spend a lot more money.

The Court: You could afford to be more liberal?

The Witness: That's right. There is a lot of that enters into the sale, where you actually go out and spend the money.

The Court: Well, in reality, you are not in the business, to get down to brass tacks,—in reality, you are not in the business of selling paint or painting stations for others, are you?

The Witness: No, sir.

[fol. 1939] The Court: That was merely a supplement to your contract to sell them goods, to make sure that he has no other signs, that the station itself is painted with Richfield colors and that he had no other signs selling other products? Isn't that true?

The Witness: That is true, yes, sir.

By Mr. DeMartini:

Q. Now, in connection with the discussion with the dealer with respect to paint, weren't you also interested, in this instance in soliciting a new account, to sell him gasoline and other petroleum products, and isn't it also true that you were up against competition and that competitors were offering him to sell him their products and offering him certain paint?

A. Competition in the oil business was always present.

Q. And isn't it true that on frequent occasions, when you offered to paint certain facilities of the dealer prior to signing them up on a contract to sell them products, that he said, "Well, Standard Oil offered me more," or "Asso-

ciated offered me more, and unless you paint this wall, or this fence, or this extra canopy, why, I'll take their deal"?

A. That's true.

Q. On those occasions would you submit them to Mr. Hutchinson, who, in turn, would submit them to Mr. Kirby?

A. Well, I never passed on a deal like that myself. I would always submit that to Mr. Hutchinson.

[fol. 1940] Q. And sometimes they were approved, and sometimes they were disapproved?

A. Depending on their gallonage, yes.

Q. And when they were disapproved, what would you do?

A. We would just forget it.

Q. Did you ever go back to a dealer and tell him, "That is the best we can do"?

A. You could go back and tell him that was the best you could do, but if you couldn't get together on it, you might just as well forget it.

Q. And frequently he would sign up with another company to sell their gasoline?

A. He might not change his present supplier. He might just be fishing for a lot of paint.

Q. In other words, he was always fishing for extra paint, wasn't he?

A. Not necessarily. He might be, I said.

Q. In many instances he was, wasn't he?

A. In some instances. Where he had nothing but his station building, and another company would object to painting it, he certainly would not have any fishing to do.

Q. Now, do you recall any instances in which Richfield refused to execute a 337 contract because the dealer wouldn't sign a paint agreement?

A. Because he wouldn't sign a paint agreement?

Q. Yes.

A. Yes, I can recall one in particular.

[fol. 1941] Q. Well, will you give us the circumstances, Mr. Bradford?

A. I had our agent in La Grande, Oregon at what we considered a nice outlet there on the highway. He had about 12 cabins which had been painted Richfield, but when I was in the territory we wanted to renew the sales on paint and, of course, the question came up of painting the cabins. I told him that I would submit it, because I did not have the

authority to pass upon it, but I was satisfied it would never be approved, and it was not.

Q. No, that is not the type of instance I mean. I was referring to back instances where there was a controversy as to the amount of paint. I mean did you ever have an instance where you refused to sign a contract to sell a man products, that is, sign a 337 sales contract, because the dealer would not sign a paint agreement?

A. Well, in other words, if I get your question correctly, whether we entered into an agreement with a dealer on a sales contract and no paint contract?

Q. That is correct.

A. No, I don't believe I recall any of those.

Q. You remember no instances during the entire time that you were branch manager at Portland that that did happen?

A. No, I don't remember any case like that. I don't think we had an existing sales contract without a paint contract [fol. 1942] in the whole territory.

Q. You are sure of that?

A. Positive.

Q. Did you ever recall any instance where the dealer wanted a service station painted in neutral colors?

A. Yes.

Q. Colors other than Richfield, and that Richfield did paint that service station in those colors?

A. It did.

Q. That did occur?

A. Yes.

Q. In how many instances did that occur?

A. The Kawalski deal, a large super-service deal out on Lombard, was painted white.

Q. So if it was a good enough account and insisted upon his station being painted in neutral colors, because of the size of the business involved Richfield would bow to his wishes on that score, is that correct?

A. They have. The- did in that case.

The Court: But the signs displayed were still Richfield?

The Witness: The signs were Richfield. The ridge sign was Richfield and the pumps were our colors, but the building was white, a very unusual setup.

By Mr. DeMartini:

Q. Now, you stated in this solicitation of new accounts [fol. 1943] and in negotiation with the dealer, and in order to get approval for a paint agreement, you would insist that the dealer take down certain competitors' signs and that you would take pictures in that regard, is that correct?

A. Took down all competitive signs before I took the photographs, yes.

Q. And what would you do with that photograph?

A. Attach it to the original paint requisition that went along with it to Seattle.

Q. Then that would be forwarded to Seattle in connection with the approval of the paint requisition, is that correct?

A. That is right. It was stapled to the paint requisition itself.

Q. In connection with the taking down of those signs did you simultaneously insist upon the dealer agreeing to take out all the competitive products that were represented by those signs?

A. No.

Q. He would continue to sell the competitive products that he had in his station at that time?

A. Yes, he would. If he felt so inclined, he would.

Q. And suppose the man refused to take down a competitive sign, what would you do?

A. I never had one of them refuse.

[fol. 1944] Q. You never had one refuse in all instances?

A. No.

The Court: I gather from what you told us before that when you asked him to remove for the purposes of taking the pictures, that he knew it was temporary only, that you wanted it only for the picture and that he might restore it later on after the painting had gone through, or did I get the wrong impression?

The Witness: The actual operation there, your Honor, when I would walk to the station with a paint requisition I would not go to the dealer at all. I would go in the back part of the lot and start writing up my paint requisition. When I would look up in the operation, somewhere along the way, I might see the signs disappearing behind the

building, because these fellows knew I would not take a photograph of those signs out there, anyway.

The Court: They knew what you were aiming at, is that it?

The Witness: That is right, and they had been through it before, I would say.

By Mr. DeMartini:

Q. Who was that who would take the signs down? I did not hear you, Mr. Bradford.

A. The dealer would.

Q. And sometimes your own salesman would?

A. No, I wouldn't say that. As far as I know, I never [fol. 1945] touched a competitor's sign myself.

Q. But your salesmen who were working on the negotiation of this deal would induce the dealer to take down the sign, is that correct?

A. You are talking about a new account?

Q. That is correct, a new account.

A. Well, on a new account we would not be too much concerned about the signs on a new account. We would not be too much concerned about taking the sign down. It was still someone else's colors. We would assume that would all be changed when our painters went up there, he would remove those signs, and the sign might belong to a competitive oil company.

Q. So, then, the removal of signs was only in those cases where you wanted to get an approval for a repaint job on an existing account?

A. I would say so, yes.

Q. And you would have the dealer remove the sign so that you could send to your superior a photograph of the station showing no competitive products?

A. That is right.

Q. Is that correct?

A. Yes, sir.

Q. But you made no effort to get the dealer to remove the competitive products that were represented by those signs?

A. I understood your question, you asked me if I insisted [fol. 1946] upon it. I said, "No," but at that time that was the chance for me as a branch manager to do what I could in removing the competitive oil. Mind you, if I could have

gotten him to take it out—and I doubt if there was very few times that I ever went through the territory on a paint requisition job, that I did not ask these dealers to get all of it out of there. But whether he got it out, again, or not, that is a different thing.

Q. Well, as a good salesman you were trying to sell as much of our products as you could, isn't that correct?

A. Yes, sir.

Q. So at the time when you repainted the station, that was a good time to negotiate with him for the selling of Richfield products?

A. That is the best crack that I had at him, yes, as a branch manager.

Q. So that, going back now to the negotiation of a contract with a dealer to whom you had not sold before, then this practice of removing signs before you got approval from your superior for the painting of the station was not indulged in, is that correct?

A. Well, there would be no use to take those signs down. Chances are, if Mr. Hutchinson and perhaps Mr. Kirby would sit across the street with me in the automobile and look at the station. I would not be able to—there would [fol. 1947] be no sense in stripping a station with competitive colors and competitive signs when we were going to take it over. That was a job when we got through painting it, what it was going to look like. That is what we were interested in.

Q. And in negotiation with these accounts for the sale of products under a 337 contract you made an effort to sell them as much products as you could, did you not?

A. You mean 100 per cent basis, near a 100 per cent basis?

Q. Well, as much as you could. I don't know what basis.

A. Well, the quantity would depend on what he could sell. We would approach the 100 per cent basis as near as we could, yes.

Q. But you would never refuse to take on an account who said that he wanted to handle competitive oils?

A. Well, I never did, I don't believe.

Q. And the same is true of competitive TBA's?

A. That is right.

Q. I will ask you if you did not state if after you signed

up an account and the painting was done and the account put in competitive products, we would collect on the paint agreement. You did not mean by that, that after you had painted the station and signed up a 337 dealer on a 337 contract and he had put in, let us say Hy-Vis or Pennzoil [fol. 1948] that he did not have in before, that you would collect on the paint agreement, do you?

A. Speaking strictly of gasoline.

Q. You had no reference to competitive lube oils?

A. No.

Q. And the same is true as to TBA, if he put in competitive TBA that he did not have in before, you did not mean by that statement that you would collect on that paint agreement under those circumstances, did you?

A. No. I meant by that statement if we lost the account.

Q. What you meant by that statement, if I understand, then, is that when the account, prior to the expiration of a sales contract, completely displaced our gasoline by putting in other gasoline, is that correct?

A. Well, we would say he broke the sales agreement and put in a competitive product in the pumps, and the pumps were repainted, whether the building was repainted or not. The place was painted competitive colors and we went out of the station completely.

Q. What would he do under those circumstances? I don't quite follow you on that, Mr. Bradford.

A. Well, as I say, some competitor might come in and take over, which they did take over one of your dealer accounts, and the paint job, we certainly billed him and did [fol. 1949] bill him on the paint that was on the station. That was part of the agreement.

Q. Isn't it true that the paint agreement that you referred to provided that we could collect on the painting agreement provided that he defaulted in the sales contract? Isn't that correct?

A. If he broke the contract and got himself a new supplier.

Q. Isn't it also true that under the circumstances, before you could recover on the paint contract, you had to serve him with a notice of default? Wasn't that a practice of the company?

A. Well, I would say that is true.

Q. At that time during your tenure as branch manager of Portland——

It is unfortunate, your Honor, that these do not show the print dates too well in the photostats.

I will show you a contract which is marked Government's Exhibit 5-B and ask you if that was not the form of 337 sales contract that you used during your tenure as branch manager?

A. Well, I would think so.

Q. Maybe this will be a simpler question for you to answer, Mr. Bradford. It is true that the first paragraph of that contract provided as to the minimum and maximum purchase requirements thereunder that they would be [fol. 1950] measured on a yearly basis, isn't that correct?

A. That is right. You put the yearly figure in there, arriving at it by the month.

Q. You have further testified that it was your understanding that we could not collect under the paint contract unless there was a default under the sales contract.

A. That is right.

Q. Isn't it also true that before we made any attempt to recover under the sales contract it was determined whether the dealer purchased his yearly contract requirements prior to the date of his default so that he was actually in default? Let me give it to you by a hypothetical question. Suppose the minimum requirements under the contract which is dated January 1st is 8,000 gallons and he defaults in, say, November, at which time he has bought 8,500 gallons. Under those circumstances we could not collect under the paint contract?

A. Well, Mr. DeMartini, the only connection I would have in collecting on a defaulted paint contract is whatever the statement was that was forwarded to be by the division office. I had nothing to say about the amount or anything else. If they wanted to collect, they sent the bill. If they didn't want to collect, I didn't get one. That is as far as I know.

Q. You, then, had no control of the policy of the com-

pany with respect to collecting under those paint contracts, did you?

[fol. 1951] A. Not as far as the policy is concerned, no.

Q. And you do not know under what circumstances they did or did not collect?

A. No, not necessarily.

Q. Do you know of any specific instances on which they did collect?

A. Not in Portland.

Q. Do you know of any instances in Portland where a dealer had defaulted in his contract and a competitive supplier had taken over the station?

A. During my branch managership in Portland we did not lose an independent station that was painted. You understand, you might have a one-pump in a parking lot where there would be no painting involved except the pump. There was no paint agreement with that. I was talking strictly of buildings, and while I was branch manager in Portland I am positive we did not lose an independent or a dealer account that involved a paint contract, to the best of my recollection.

Q. And was that also true during the period that you were office manager in Portland?

A. Well, I wouldn't say for sure on that.

Q. Then you do not know of your own knowledge whether Richfield ever collected under any of these paint contracts?

A. I have collected on a couple down here in the south-

[fol. 1952] ern division.

Q. What were the circumstances under which you collected on those?

A. Well, in those days we lost accounts right and left.

Q. Pardon me. What time are you speaking of now, Mr. Bradford?

A. Well, I would say prior to 1935.

Q. Well, please do not answer anything prior to 1937.

A. Well, that is what I say. That is what I say.

Q. Did it ever occur during the time that you were branch manager at Portland that an independent account with whom you had a contract to sell gasoline displaced your gasoline in less than all of the pumps?

A. No.

Q. Now referring back to the matter of the painting of an account, that is, the repainting of the station of an account which was currently under contract on which you were attempting to renew, it is true that frequently immediately after the painting of the station the competitive signs they removed were put up again, isn't that correct?

A. Well, not necessarily. If the signs were carried around to the back of the building and put out of sight, the chances are the dealer would let it remain there until the competitive oil salesman came along and hung it back up again.

[fol. 1953] Q. Then when the competitive oil salesman came around he usually made an effort to display his products again and to induce the dealer to put them up?

A. I would say he would get his sign back up.

The Court: A tug of war, was it?

The Witness: More or less.

By Mr. DeMartini:

Q. Now, I change to a different subject, Mr. Bradford, and that is the matter of fixing of the quantities in the sales contracts. You testified that the quantity was fixed in your office, is that correct?

A. Yes. We drew up the sales contract in the branch office.

Q. Where did you get the information from which you drew up the contract?

A. Off the gallonage cards.

Q. Let us take a competitive station that you were taking on. This is a new station and you have negotiated the deal now and you are going to close it and you are going to prepare the contract and you are going to insert the figures. You are considering now the minimum figure that the dealer is required to purchase.

A. We would get that from the service station records.

Q. Whose records?

A. The operator's, the dealer's.

Q. Would he always show them to you?

A. I would say so, yes. If he was going to Richfield,

[fol. 1954] he would not have any hesitation showing us his gallonage figures.

Q. Why would he show you those figures?

A. Well, for various reasons. In the first place, you don't send a sales contract in to the division manager and say, "Here's a service station"—period. You have to send in some information on why you want to take that account and what is your best estimate of the gallonage. And if you know what the gallonage is, why, you have got definite figures for the division manager. He has to execute the paper and you have to go into the gallonage potential. We always hope it would be more than the fellow was doing already. Sometimes we sold them on that basis to the division manager.

Q. Suppose he would not give you any figures, what would you do? Suppose it was a good account and he says, "Well, I am not interested in giving you any figures on what business I have done," what would you do then?

A. Well, I don't think I ever had one like that.

Q. Now, you fixed this quantity in the contract without any consultation with the dealer at all?

A. Yes, the contract to be drawn up in the branch and taken out to him, and he could read it or not read it. That was left entirely up to him. He was handed it. You handed it to him and if he wanted to go over the gallonage figures, but the gallonage figures in my operation in the Portland area did not mean too much for the simple [fol. 1955] fact that we were in war with a definite quota on the branch, and we had to allocate the gasoline the best we could. And we didn't pay much attention to gallonage figures on the sales contract. Uncle Sam wouldn't let us have the gasoline, anyway.

Q. In determining those figures during the war period didn't you have to give consideration to certain allocations that the station might have at that time?

A. Well, the quotas of individual stations were set by the division manager's clerk in Seattle, and we got the quotas on those individual stations, station by station, as your quota on station so and so for the month of March, ahead, so many gallons.

[fol. 1956] Q. Do you know how those quotas were fixed?

A. No, I don't know how they were fixed, except they were just broken down from the branch quota, and it was fixed as against the gallonage the station was doing. If a man was doing twice the gallonage of another station, why, I would say his quota would be twice the other fellow's quota.

Q. Well, that was during the period the Petroleum Administrator for War had control of the operations generally of the oil industry, wasn't it?

A. I would say so.

Q. And these quotas were fixed in accordance with a formula that was fixed by the Petroleum Administrator; isn't that correct?

A. Yes, I would say so.

Q. So that you didn't have much discretion with respect to those figures in the war period?

A. Well, my statement was that the figures on the sales contracts didn't mean much, no.

Q. Now, let's take the period subsequent to the war, where they did mean something. Did your tenure as branch manager end prior to the expiration of the wartime control?

A. No, I was branch manager on V-J Day. No, I was moved into real estate work subsequent to the war. The war had ended.

[fol. 1957] Q. When you fixed these quotas, didn't you ever have any discussions with the dealers at all?

A. The only discussion was that the dealer always wanted some more gas than his quota called for.

Q. The dealer always asked for a higher figure than in the contract?

A. I am going by the quota sent down by the division office, not by the contract.

Q. And that quota was fixed in accordance with what the clerk had computed would be allowable by the Petroleum Administrator; is that correct?

A. That's right. We could make some variation in that. You would never hit it right on the nose, of course, but we were very, very closely watched.

Q. Well, you testified, however, that you sat down in the office and when you had a figure of 10,600 as past experi-

ence, you rounded it out to 11,000. I can't make that statement coincide with what you are stating now, Mr. Bradford.

A. Well, are you talking about the figure in the sales contract, or the figure he actually bought, or the quota established by the federal——

Q. I am talking about the figures in the sales contract. That is all we have been talking abo t.

A. The only quota I have been talking about is putting [fol. 1958] it in round figures. There is no use pushing it down to the lower figure, so you put it in round figures.

Q. Where would you get the figure of 10,600 you mentioned?

A. You are talking about a new account?

Q. A new account.

A. Something we are just taking on?

Q. Yes.

A. Well, I would get that from the dealer, and my best judgment of what that station would do, that is, my estimate. That is how I sold that deal to the division manager. I was open to severe criticism if I sent him in a sales contract which called for an expensive paint job, and I estimated 10,000 gallons and the account would run three. In fact, I wouldn't do that.

Q. So that the paint contract was based upon the estimate of the gallonage that the station would do; isn't that correct?

A. That's right.

Q. Now, wasn't it a common practice in the industry for the dealer to advise you of gallonage figures in excess of those that he was doing, for the purpose of getting a better paint contract?

A. No, I wouldn't say so, no.

Q. That has never occurred?

[fol. 1959] A. Not to my knowledge.

Q. You would say that was not a practice in the industry, after having been three years as manager in Portland?

A. To me—— I am not saying anything about the practice, but I don't think in my recollection—I am sure no

dealer ever gave me any phony figures or gallonage figures, if he didn't have them. The dealer might be new in the station, too, and we took over closed stations, stations that had been closed, competitive stations. That way it was strictly guesswork what the dealer thought he could go, and what I thought he could do, and so on, on what Mr. Hutchinson thought he could do. That is the figure we put in there.

Q. The dealer would always guess high, wouldn't he?

A. Well, his guess was no better than anybody else's.

Q. Well, he was interested in getting as much paint as he could, wasn't he, Mr. Bradford?

A. Yes.

Mr. Dixon: If the court please, I think there have been a lot of these questions that are both leading and calling for conclusions. We have no objection if your Honor wants to listen, but we do think——

Mr. DeMartini: This is cross examination, counsel.

The Court: Yes. However, this estimate of the gallon-[fol. 1960] age, with your dealer in a new account, that was based upon your own knowledge and the prospective dealer's knowledge of what could be done in that neighborhood with that station; isn't that correct?

The Witness: Conscientiously, your Honor, yes, to the best of your knowledge, what that station could do. There wasn't any attempt made to fool anyone.

The Court: And if there had been a station there that was operated and was closed, why, of course, you had a source of information if the man you were dealing with was not the man who had operated the station that was closed?

The Witness: Your location then would be the main thing you would base it on, and, of course, a one-way street, or something like that, would affect it.

By Mr. DeMartini:

Q. You would prepare this contract in your office and insert the figures in the contract, Mr. Bradford?

A. It would be prepared in the branch office and taken to the dealer for his signature. When we sent it to Seattle, the dealer would have signed it.

Q. When you take it to the dealer for signature, didn't he at any time object to the quantities that were specified in the contract?

A. No.

Q. At no time?

[fol. 1961] A. Not while I was branch manager in Portland, no.

Q. So that every time you took a contract to the dealer, in which you had inserted quantitative figures in the 337 sales contract, he signed it without dispute?

A. That's right.

Q. You didn't always——

The Court: Pardon me. In all of those, you weren't figuring only on past performance, you were basing it on hope on the future, weren't you?

The Witness: Well, we always did, yes.

The Court: Portland has had great growth. I was there in March. In fact, they are very nice people up there. We lost our dog there, and found him afterward. Somebody picked him up. He had started back for Los Angeles, and he was picked up seven miles south of Portland. We put an ad in the Oregonian which brought him back.

Also, I was educated in Oregon. I am a graduate of Willamette University, so I have affection for that state. But the entire state has grown very much in population, even more so than California in the last 10 years. 48 per cent, isn't it?

The Witness: It has had a tremendous increase.

The Court: And that was the time when these contracts were made, when you were cashing in on the war products, and you even built up a new town there. What is it called,—— Van Port?

[fol. 1962] The Witness: Van Port. That washed away in the flood.

The Court: What is that?

The Witness: That washed away in the flood.

The Court: Yes, it washed away in the flood. As I remember the type of buildings it had, it was a good riddance. It was rather tough on the people.

The Witness: That's right. But, your Honor, I might add that that gallonage figure was a year's figure, and

although he might start off on maybe half the monthly gallonage to make that figure, but he might wind up at the end of the year with enough over to come pretty close to that figure.

The Court: All right. As I remember, there was no penalty attached to the contract,——

The Witness: No.

The Court: —to the supply contract if it did not come up to the gallonage?

The Witness: That was not a default of the contractor, so far as I have ever known, if he didn't buy his minimum, no.

The Court: All right. And the allowances you made to him, or the discounts, which ever way they went, did not depend on that amount of the gallonage?

The Witness: Well, yes, in some instances. You had a letter of a cent a gallon, which is in addition to the sales [fol. 1963] contract. We stuck in Portland to the one cent, and while I was branch manager, we had the one cent extra margin to practically all of our dealer accounts. That gave him five cents off instead of four, which he got off a tank wagon. So there was another document went with the contract.

The Court: I see.

By Mr. DeMartini:

Q. That would be another reason for the dealer liking to show a large gallonage at the time you negotiated the contract, wasn't it?

A. No. If he didn't buy the gas, he wouldn't benefit by the cent.

Q. He would not benefit by the cent?

A. Only on what he bought.

Q. On what he bought. But you stated that in the negotiation of the contract the amount he would get depended upon his gallonage, so if he was only doing 2,000 gallons, you wouldn't give him the cent, would you? But if he was doing 6,000, you might give it to him?

A. I see what you mean.

The Court: He said that this morning. But am I not to understand from what you just said that, regardless of the gallonage that you gave him, that was extra in your

district during the time you were there? Or did I misunderstand?

The Witness: Well, a pump in a parking lot, or something like that,——

[fol. 1964] The Court: That isn't the point. We are talking about regular stations.

The Witness: Yes, the bulk accounts. I think all our dealer accounts, that would qualify as a dealer account, a service station account, were on five cents.

The Court: You wouldn't have a pump on a lot except away out on the outskirts, across the river?

The Witness: Well, in a parking lot downtown you might have one.

The Court: You might have one.

The Witness: But they wouldn't do much because the parking lot——

The Court: Oh, yes, I remember one. You see, I have sat in your Federal Court. Where is that? On 6th Street, isn't it?

The Witness: Yes.

The Court: There is one between the Federal Court House, and what is the name of that hotel?

The Witness: The Benson?

The Court: No. The St. Andrews Hotel.

The Witness: Oh, yes.

The Court: Do you remember where that is?

The Witness: Yes.

The Court: There is one on one of the lots right adjoining it. That was a parking lot.

[fol. 1965] The Witness: We had a few, yes.

The Court: Having been a roving judge, gentlemen, I have an advantage, you know. In fact, one of your witnesses came and brought me greetings from the marshal in Portland. So I have been a roving reporter or judge for all these years. I started moving around when I became a judge. Judge Wilbur said as I was the youngest, he was expecting me to start in to learn the business in other districts, as well as in my own. I have always enjoyed it, because they are always very interesting questions. I have even tried anti-trust cases away from home. That is the one you lost.

Mr. Dixon: We won't mention that, Judge.

Mr. DeMartini: I just credited him with not losing any.

The Court: Oh, don't do that. He lost some. I did the worst thing a judge can do to a lawyer, you know. I didn't even let it go to a jury.

He had a criminal case there. That is the famous case against the San Francisco contractors, where they indicted the San Francisco electrical contractors and two big unions. We even had as a defendant there Bill Tracy, who is the head of the big electrical union, and at that time was Assistant Secretary of Labor. I didn't let them get to the jury. I took it away from the jury after 12 days.

Well, we will stop visiting and go on now.

By Mr. DeMartini:

Q. I believe you have already stated this, but the rela- [fol. 1966] tionship between Richfield and these 337 dealers was one of vendor and purchaser, was it not? You were trying to sell them the products? It was a salesman's proposition, was it not?

Mr. Somerville: I will object to that, your Honor.

The Court: Oh, that is all right. He has explained that his main object, of course, was to have outlets for his products, and the other things were a means to achieving that; isn't that true?

The Witness: Yes, sir.

By Mr. DeMartini:

Q. It was a matter of dealing with the competition, to sell them oils, for instance, in competition with, oh, take Pennzoil or Quaker State. You are trying to sell these dealers as against those salesmen; isn't that correct?

A. Those accounts, you might say, were handled by salesmen. Merchandisers had nothing to do with it. They were handled by Richfield salesmen.

Q. And your salesmen were encouraged and instructed to go out and sell these men as much as they could; isn't that correct?

A. Well, he wouldn't show too well on his month-end report if he didn't keep working on that all the time. He would eventually get away from the oils and greases.

Q. Did you have a quota on that, Mr. Bradford?

[fol. 1967] A. Yes, we had a quota, but it was like other quotas. If you didn't make it, there was nothing drastic happened to you. They were quotas that we shot at. They were always high enough under Mr. Hutchinson.

Q. You went somewhat into your duties and practices in connection with your next employment, which I believe you stated was—what was it—a real estate representative? What did you call it?

A. I was on the pay roll and my title was real estate representative. My duties were branded that way, anyway.

Q. From whom did you get your instructions with respect to that employment?

A. You mean after I was on that job?

Q. Yes.

A. Well, by work went clear to Mr. Jones, the president. I would go out and find locations, and Mr. Dinkins might come upon one case, or Mr. King, or Charlie Jones might come up. Mr. Sinclair, I never did have the pleasure of steering him around the territory, but Mr. Jones approved a few deals of mine right there on the spot.

So I was working under the supervision there of Mr. Kirby, but they tried to approve those deals from my survey, which was quite an elaborate set of papers, but oftentimes they would hold those and they would come up to Portland, and we would meet and get in the company Buick and drive all day, and they would approve the deals [fol. 1968] right there.

Q. And your duties consisted of acquiring properties by purchase and by lease; is that correct?

A. Primarily at that time by purchase. As far as I am concerned, I might answer, Mr. DeMartini, that the pressure was, you might say, on to buy all these corners that we could buy, and I didn't have time to work on leases. It wasn't that I wasn't supposed to, but I couldn't do all of that. That had to come later.

Q. By "all these corners" do you mean corners which we currently then had under lease?

A. No, not necessarily. This was—we bought some of those, but Mr. Hutchinson and I, we first started out in the city of Portland and would go up one street and down

another street, and where we wanted a service station, we would put a red circle, and then Mr. Hutchinson would leave me, and I would take off by myself and endeavor to get a location inside that circle. The thought was to stagger the stations on up the street so, say, on Hawthorne Boulevard if we found a good position and had a station on the left-hand side of the street, so many blocks away we would have another on the right-hand side, and so many blocks away on the left-hand side, and so on. That was the program.

[fol. 1969] Q. Can you fix the period this took place, Mr. Bradford?

A. Well, I was working at that when I resigned in December of '47.

Q. That was from about March of '46 to December of '47; is that correct?

A. Well, I don't have my file here, of course, and I am only——

Q. That is approximate?

A. Yes, it is approximate. I don't have those dates fixed in my mind.

The Court: When you resigned, did you go into some other business? I have forgotten about that.

The Witness: Well, I got all steamed up over the real estate business, and I have been in that ever since.

The Court: In the real estate business?

The Witness: Yes, sir.

The Court: In Portland?

The Witness: I am in Medford now. I was in Portland.

By Mr. DeMartini:

Q. If I understand you correctly, your activities would consist of attempting to develop for the purchasing by the company properties that were within the red circle area that you just described?

A. Yes. That might be a vacant lot, it might be an apartment house, it might be an existing competitive service station, or it might be a Richfield service station. The [fol. 1970] main thing was to see that in the picture, that we wanted a station there.

Q. And you would develop these deals and then submit

them on the best basis on which you could develop them; is that correct?

A. The best basis I could get them on, yes, and then I would take an option for 60 days, and I would pay a whole dollar on it.

Q. I think that was always it?

A. Yes.

Q. You also stated that you had more of these deals than you could handle at that time, that it was something that was very active, those activities of acquiring properties; is that correct?

A. I had the whole state of Oregon and Idaho. I never did get to Idaho, but they subsequently put in two boys to help me, a boy named MacDougal and a man named Getchell, so there was three of us.

The Court: Was this a special program of expansion that the company had undertaken at that time?

The Witness: Yes. I could give you the figure that we were told we had to expand, if it is permissible here. We were told that there was $25,000,000 set aside for expansion, and another 25,000,000 when that was spent.

[fol. 1971] The Court: I see.

By Mr. DeMartini:

Q. And part of the program was the leasing of existing service stations; is that correct?

A. When I was in real estate?

Q. Yes.

A. Well, it was a case, Mr. DeMartini, where someone else had to handle that. I was not in a position to. Of course, we had other representatives, too, in the territory I was covering, and someone else had to handle leases. I wasn't able to. In getting the deals scattered all over Oregon, there was no way I could be working leases.

Q. Well, during all of the time that you were branch manager or that you were real estate man, you did negotiate leases for service station properties, did you not?

A. Yes. I renewed, I would say, two or three existing leases during my branch managership. I don't think I wrote a new lease.

Q. Well, during the period from 1946 to the end of your

employment, do you know the basis upon which leases of ground were being secured by the company, that is, bare ground?

A. Bare ground?

Q. Yes.

A. Well, on the bare ground, to the best of my knowledge, they would not go on a rental over one cent a gallon and [fol. 1972] improve a piece of bare ground.

Q. That is for bare ground?

A. Yes.

Q. Then if the company leased the bare ground, of course, to make the property productive a service station would have to be built thereon; is that correct?

A. Well, the cost of the service station just about trebled, and it had to be a pretty good spot to lease. They would much rather buy it.

Q. Did you have any experience in leasing properties that were already improved as service stations?

A. No, I never did take a competitive account or a lease on an L-O unit while I was branch manager, as I recall.

Q. Well, with your experience as being in real estate and as branch manager, you would say that it would be extremely unlikely that you could lease a going station at any time since 1946 at a rental of one cent a gallon; is that not true?

A. Well, yes, I would say yes. That is absolutely correct on a cent a gallon. You wouldn't get it.

Q. What would you say the prevailing rate on a going station would be?

A. Well, a cent and a half. Of course, your minimum guarantee enters into that, too.

[fol. 1973] Q. There was usually a minimum guarantee also?

A. If the minimum guarantee was high enough, why, perhaps you could get a station on a cent and a half, but you would have a very hard time if the minimum guarantee was low at that rate.

Q. In other words, it would be even in excess of a cent and a half?

A. It could be. Well, I don't know of any case where Richfield ever approved a lease over a cent and a half.

Q. But you did approve many with high minimum rentals?

A. Well, I don't know what you mean by high minimum rentals, but then there was a figure in it, not $10, yes.

[fol. 1974] Mr. DeMartini: Pardon me.

The Court: All right.

Mr. DeMartini: One further series of questions, your Honor. It will be very short.

Q. As branch manager, you had some contact with the L-O stations, did you not, Mr. Bradford?

A. Oh, yes.

Q. And you were generally familiar with the rents chargeable to the L-O station operators?

A. Yes.

Q. And I believe you testified that the company attempted to procure a cent a gallon rentals, isn't that correct?

A. From the operator, yes.

Q. Isn't it also true that during the period of emergency stress, especially during the war years, that these rentals were greatly reduced?

A. I believe we had some there at a dollar a month to keep the station open. Some of the oil companies closed them and we kept ours open. We did not close the station.

Mr. DeMartini: That is all.

The Court: Any redirect?

Mr. Somerville: Yes, sir.

The Court: You are giving Mr. Bradford a work-out. I don't think he will like California.

[fol. 1975] Mr. Somerville: I think he does. He tells me he spent some time here.

Redirect examination.

By Mr. Somerville:

Q. During the periods when the lease in some instances might have been at a nominal figure, that is, the rent that the L-O operator would pay, would there be some effort to get an adjustment on the rental paid by Richfield to the property owner?

A. Well, my answer to that, Mr. Somerville, that Mr. Hutchinson did an outstanding job on reducing rents from the lessor. I imagine he—well, he did an outstanding job on getting rent reductions.

Q. Well, do I understand your answer, then, that you did get adjustments on the rent?

A. Oh, yes.

Q. From the lessor to Richfield?

A. That is right.

Q. In places where either war time conditions or competitive conditions seemed to require a reduction?

A. Well, in war time conditions, not competitive conditions.

Q. Were there some leases from property owners to Richfield where the rental was fixed on a straight gallonage basis without any minimum being fixed?

[fol. 1976] A. It would be a rare case. There might have been one or two in Portland. I couldn't recall offhand, but it would be a rare case.

Q. Going back to the beginning here, to the paint requisitions, you have testified that you would send a picture in with the paint requisition and not showing any signs. Did you ever have an occasion when a picture may have showed a competitive sign which was later called to your attention by Mr. Kirby or Mr. Hutchinson?

A. Well, on a renewal, yes, we have, where you would have a Pennzoil permanent sign attached. Most of those would be a long, narrow sign over the lube room door attached to the building. We have had that go in with the sign on there. We didn't go in and tear signs loose from the building, but we have had a case or two where that sign, the picture has gone in with that sign up there, but it was common knowledge that they had the Pennzoil lubrication, anyway.

Q. Would Kirby tell you anything, would he instruct you to get rid of the sign or would he deny the requisition on that ground?

A. Well, no. The one I have in mind is Sixth and Columbia across from the New Oregonian Building that one of our former salesmen, Brown, opened that up as a closed competitive unit and he had a Pennzoil sign above the

lube room door, and we knew when he took it that he was not going to switch to Richfield lubrication. I know with [fol. 1977] that one, that picture went in with that sign up there. But as far as coming back to me because the sign was up there, no, that showed in the photograph.

Q. Was there some policy directing you in any discussions with Mr. Kirby concerning not having competitive signs on the property?

Mr. DeMartini: I will object to this, your Honor.

The Court: This is not rebuttal. I will sustain the objection.

By Mr. Somerville:

Q. In some instances you would acquire a station under a paint and sales contract that had formerly been operating under the colors of some other oil company, is that true?

A. That we would acquire one?

Q. Would there be instances in which you would acquire a new outlet on a paint and sales contract, an existing outlet, that had previously sold gasoline of some other company?

A. Well, there was not much of that because, you understand, the first thing we had to do when we took a new account, you had to be assured by the division manager that the quota could be warped around so that you would have something to supply him with. You would have to get an increase in your quota. Naturally, you were not just out taking stations right and left. There were stations [fol. 1978] closed for that reason, and you would get involved in a quota there, and the division manager take that station with a sales and paint, why, he would have to produce gasoline some place. We had some of that, but not much.

Q. Now, in your general instructions to dealers you were asking to paint, did you ever convey to them the idea that the paint requisition might not be allowed if competitive signs remained on the property?

Mr. Paradise: I will object to this, if the court please.

Mr. Somerville: I am talking about the general practice.

The Court: Oh, well, that is already gone into. You

started on that this morning at 10:00 o'clock. It is now 3:00. You are not starting that over again. I will sustain the objection. He has already told us what he said and what he expected, that is enough. You do not have to have the last say, you know that. You are not a woman. You are only a lawyer.

By Mr. Somerville:

Q. Do you happen to know, Mr. Bradford, what the purpose of the five-day termination clause was in these sales agreements?

A. What the purpose was?

Q. Yes.

A. Well, it was the privilege of terminating.

Q. Do you know under what circumstances such terminations would be effected?

[fol. 1979] Mr. Paradise: I object to that for lack of foundation as well as improper redirect.

The Court: I will sustain that. We have gone into these. He has told us what the practices were. You do not have to go over it again. That is what happens when you keep a witness on the bench for a long time. You forget where you started and start all over again. Fortunately I have got a very good memory, you see. So let us limit ourselves to real redirect on new matter that was brought out by Mr. DeMartini.

Mr. Somerville: Just one or two more questions.

The Court: I timed you yesterday. You said you had two and you had 12. You say some additional questions.

By Mr. Somerville:

Q. Mr. DeMartini in speaking of the gallonage maximum and minimum quantities referred to what the station would do. The estimates of the maximum and minimum quantities were based on the premise the dealer would buy all of his gasoline from Richfield?

A. Yes.

Mr. DeMartini: I just want one question, your Honor.

The Court: Wait a minute. He is not through yet. Let us give him a chance.

Mr. DeMartini: I thought he was through.

By Mr. Somerville:

Q. Do you know of any circumstances in which they did [fol. 1980] not buy all of their gasoline from Richfield under the sales contract?

A. I don't know of any that they did not buy it all openly, but I don't think we had better get into the proposition of spiking tanks because I couldn't prove it, anyway.

The Court: All right.

By Mr. Somerville:

Q. In renegotiating a sales contract in the sense that it would be a continuation of the same dealer after the expiration of the term of a former sales contract would you consider the gallonage as of that time in figuring the maximum and minimum figures?

A. Well, that is a yearly figure and you would take his last year's figure or, if you had a five-year period, you could use the five-year period.

The Court: He answered that a while ago, when he said that after the first year, in view of the fact that the supply agreement was a yearly agreement, then when it came to renewing it you had a basis to go on. What he had actually done at the station, isn't that it?

The Witness: That is right.

Mr. Somerville: I am sorry. I just wanted to clarify that and point out that it was not based on war time allocations.

The Court: Oh, that is all right.

[fol. 1981] Recross-examination.

By Mr. DeMartini:

Q. You spoke of the program of securing reductions of rent from land owners on service stations.

A. Yes.

Q. That was a war time program, wasn't it, Mr. Bradford?

A. Certainly.

Q. You know of no circumstances where the rent from

the land owner was reduced to a figure such as a dollar month?

A. I don't, no.

The Court: That system began back in 1942?

The Witness: That is right.

The Court: When they began to ration gas.

The Witness: That is right.

The Court: And some of the stations were open only a few hours at a time?

The Witness: Yes.

The Court: I happened to hold court there in 1942, gentlemen. In fact, just before the gasoline rationing went into effect. I even had a rationing card and took my first trip with it.

All right, we will take a short recess before you call your next witness. You excuse your witness, Mr. Somerville. I will leave that to you.

[fol. 1982] (Short recess)

The Court: All right, gentlemen, call you next witness.

Mr. Alexander: Mr. Strable.

William Strable, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Court: Are you through with the State of Oregon now? Are we moving into a new state?

Mr. Alexander: The State of Nevada.

The Court: Oh, we are going into Nevada now.

The Witness: Yes, we are going up into Nevada.

The Clerk: What is your name, please?

The Witness: William Strable.

Direct examination.

By Mr. Alexander:

Q. Where do you live, Mr. Strable?

A. I live nine miles south of Las Vegas on Highway No. 91.

Q. Are you the owner of a service station up there at that location?

A. Yes, sir.

Q. Do you have contractual relationship with the Richfield Oil Corporation at that location?

A. Do you mean as far as my gasoline rationing is concerned?

[fol. 1983] Mr. Paradise: I can't hear you, Mr. Strable.

The Witness: Do you mean my minimum and maximum?

By Mr. Alexander:

Q. No, Mr. Strable. I say, do you have a contractual relationship with Richfield Oil Corporation?

A. Oh, yes. Yes, I handle their products.

The Clerk: Government's Exhibits 14, 14-A, -B, -C, and -D marked for identification.

(The documents referred to mere marked Plaintiff's Exhibits 14, 14-A, -B, -C and -D for identification.)

By Mr. Alexander:

Q. Mr. Strable, I show you these documents, 14, 14-A, -B, -C, and -D which are Government's Exhibits in this case, and ask you to examine these and tell me if your signature appears on them?

A. Yes, that is my signature. Yes, yes. That are all my signatures.

Mr. Alexander: The Government offers these exhibits into evidence, your Honor.

The Court: They may be received.

Mr. Paradise: No objection.

The Clerk: Government's Exhibits 14, 14-A to 14-D, inclusive, in evidence.

By Mr. Alexander:

Q. Mr. Strable, will you describe to the court the circumstances under which these documents were executed?

A. Well, I had a lot of verbal terms that were never carried out. It seems as though when I got my leases back, [fol. 1984] where they are making a new lease, it would not be writ up the same as my verbal documents—that is, my

verbal agreements. I had so many verbal agreements with the——

Mr. Paradise: Just a moment, please, Mr. Strable.

By Mr. Alexander:

Q. Mr. Strable, did you have a conversation with a representative of the Richfield Oil Corporation?

A. Oh, yes.

Q. In connection with these documents?

A. Oh, yes.

Q. Where did that take place, Mr. Strable?

A. At my place of business.

Q. Could you relate to the court the persons from the Richfield Oil Corporation?

A. Mr. Graves, he is their local distributor, and then there was either one or two company men, which I cannot recollect their names. Some of them came in and they don't even introduce themselves.

The Court: All right.

Mr. Alexander: May I have those documents, your Honor?

Q. I show you Exhibit 14-B and ask you if you will read paragraph 1 and describe*d* to the court what the discussions were at this time with Mr. Graves and those other unidentified representatives?

A. Do you want me to read? "Seller agrees to sell [fol. 1985] and deliver"——

Q. Oh, excuse me. I do not want you to read it. I want you to look at it and describe the conversation which you had. You will note you initialed that paragraph.

A. Yes. Well, I didn't quite understand how they made up the minimum gasoline there. I don't think it was very fully explained to me. From the last witness here it kind of come out there that what they are basing it on was your gallonage from before.

Mr. Paradise: I move that be stricken. The question calls for conversation. May I ask that the time of this conversation be fixed?

The Court: Yes, it may be stricken. Let us fix the time and then we will go from there.

Mr. Paradise: And place.

A. Well, it would be approximately the date of this one here. This is May 30th.

Mr. Alexander: It is June of 1948, your Honor.

The Witness: Wait a minute. Yes, June 1st, 1943, and ran through to May 30th. Well, they have got it "58".

Q. Mr. Strable, did you have conversations with Mr. Graves and those other unidentified individuals as to the petroleum products that should be carried at your service station?

A. It was understood that I should keep right on hand-[fol. 1986] ling Richfield products, which I have done for the last 13 years.

Q. Now, Mr. Strable, I show you Government's Exhibit 14-D and ask you to examine paragraph 1 and state, if you will, to the court with whom you had conversations concerning that document?

A. That was with Mr. Graves and an unknown man to me, a Richfield representative from the office down here. I can't make out his name on here.

Q. Where did that take place, Mr. Strable, and when?

A. At my place of business.

Q. And when?

A. That was November 1st, 1948.

Q. No, Mr. Strable. When did the conversation take place. I am not asking you to read the document.

A. It must have taken place just prior to November 1st, 1948.

Q. And looking at that paragraph can you recollect the nature of the conversation that you had with these gentlemen?

A. Well, here, up above here, it gives "this agreement executed this 15th day of October, 1948." Well, then, you see they have got it dated commencing November 15, 1948.

Q. Mr. Strable, calling your attention now to this conversation you had with these representatives from Richfield, [fol. 1987] when this document was brought before you, was paragraph 1 of that document pointed out to you?

A. I can't recall them doing it. I can't recall them pointing it out to me, no.

Q. Mr. Strable, this last document you had before you, 14-D of the Government's in evidence, did you have any conversation with the Richfield representatives as to why this document was being brought to you for your signature?

A. Well, it was something to do apparently with this minimum and maximum.

Q. No, Mr. Strable. As to why it was being brought to you.

A. Well, just for my signature, I guess.

The Court: Well, were you told why it was necessary?

The Witness: Well, that is when they put a minimum and a maximum on it.

The Court: What did they tell you about the minimum and maximum?

The Witness: They didn't explain it fully to me.

The Court: All right.

The Witness: I was going to bring that up myself but this other gentleman, this last witness here, why, it was about the same thing.

The Court: Do not say "the same thing." Don't be educating us.

[fol. 1988] The Witness: I know, but it was the same circumstances.

The Court: That does not go in accord with the law.

The Witness: Yes. Okay, Judge.

The Court: You were in another state. You were not there and you have to testify to transactions you had with Richfield.

The Witness: Yes.

The Court: What did you say, then, when that was brought up there?

The Witness: Well, I just accepted it. They told me that it would not have any bearing on me whatsoever. The only thing, it guaranteed me that amount of gasoline, a maximum and a minimum.

The Court: I see. All right.

The Witness: But they told me they wouldn't hold me to it.

The Court: All right.

By Mr. Alexander:

Q. Mr. Strable, what was the amount of rent that you were paying to the Richfield Oil Corporation under this lease arrangement that you had with them?

Mr. Paradise: I can't hear you.
Mr. Alexander: The amount of rental.
The Court: What?
Mr. Alexander: The amount of rental.
Mr. Paradise: Under one of those exhibits?
[fol. 1989] Mr. Alexander: That is correct.

A. Well, I believe that is a cent and a quarter with a guarantee of so much.

Q. Was the amount of rental that you were paying the Richfield the same amount that you were receiving from them?

A. Yes.

Mr. Alexander: We have no further questions, your Honor.
The Court: All right. Any questions?
Mr. Paradise: May I see the exhibits, Mr. Alexander?
The Court: Did you operate a station yourself?
The Witness: Yes, sir.

[fol. 1990] By Mr. Alexander:

Q. Mr. Strable, have you ever had any conversation with Richfield Oil representatives in connection with the painting of your location?

A. Yes, I have.

Q. Would you relate it to the court, please, sir?

A. Well, I had a heck of a time.

Mr. Paradise: May we have the time fixed, and the parties present, please?

By Mr. Alexander:

Q. With whom have you had the conversations, and approximately when?

A. With the Richfield representative from here, from Los Angeles, the Western Maintenance man, and with Bill

Graves, in Las Vegas, the local distributor. They have been working on it for seven months, and it isn't finished yet. I have been for two years at this paint job, and they have been seven months at it, and it isn't done yet.

Q. Those conversations have been held within the past two years, then?

A. Yes, they are painting it. They got to it last fall, where it should have been painted in the spring, so it would look nice for the summer months. They didn't get to it until seven months ago and aren't through with it yet.

The Court: Before I get through, it looks like I will have to act as an arbitrator on a paint job.

Mr. Alexander: That is all.

[fol. 1991] Cross-examination.

By Mr. Paradise:

Q. This is just to clarify the record,——

A. Yes.

Q. —Mr. Strable. Did you say the rent that you are receiving on your lease, where you are the lessor,—by the way, I will withdraw that.

You are the owner of this property, are you not?

A. Yes, that's right.

Q. And you lease the property to Richfield?

A. I lease it to Richfield, yes.

Q. Under a lease dated June 24, 1948, which is Government's Exhibit 14?

A. I pay them a check, and then they send me back a check.

Q. And what did you say the rent is?

A. It is a cent, and then an extra quarter of a cent, and that I also had to send them, and they refund that back to me also.

Q. That is the point that confused me.

A. No, I am wrong there.

Q. These instruments call for——

The Court: Just a minute. He wants to correct something.

The Witness: I think I am wrong there. I think I just [fol. 1992] send them the cent check, and then they send

me back,—they send me two checks, one for a cent a gallon, and one for a quarter of a cent. I guess that's the way they work it. I don't know. It is a really complicated system they have got.

By Mr. Paradise:

Q. These instruments correctly express the rental arrangement; is that correct, Mr. Strable?

A. Yes, sir. Try to figure it out.

Q. Mr. Strable, at the time when this second group of documents, the sales contract and the lease from Richfield to you, as lessee, which were dated August 15, 1948, and I am referring to Government's Exhibits 14-C and 14-D,——

A. Well, that's the last lease, you mean?

Q. Yes. At the time the last lease and sales contract, dated October 15, 1948, were made, what was your gasoline gallonage at that station?

A. Well, I presume right around the same amount here, around—well, I run between 5 and 6 thousand, as a rule.

Q. Yes.

A. As a rule, I think it averages up around 6. I don't keep any records of my gallonage. I have all my invoices at home, but I don't keep any records.

Q. To the best of your recollection?

A. I would run between 5500 and 6,000. In the summer I would run over that, but in the winter it would slack off, where I wouldn't pump quite so much, but it would average [fol. 1993] out over the year round.

Q. And that is the contract you signed?

A. That is their figure.

Q. I am not talking about the gallonage in the contract. I am talking about the figure you just mentioned.

A. Yes.

Q. That was your gallonage?

A. Yes.

Q. And that was the gallonage you were pumping at the time the contract was signed?

A. I presume they went back and took it off.

Q. I am not asking what they did for the purpose of arriving at the figures in the contract. All I am asking is, is that the gallonage you were pumping at that time?

A. I presume that is pretty close to it.

Mr. Paradise: Okay. That is all.

Redirect examination.

By Mr. Alexander:

Q. One further question: When this document of October 15, 1948, was presented to you, the minimum and maximum were already in there, were they not?

A. They were already on there, yes.

Q. Mr. Strable, had you had any conversation with the company officials prior to their bringing this document before you concerning these maximum and minimum figures? [fol. 1994] A. No; no.

Mr. Alexander: That will be all, Mr. Strable.

The Court: I was going to ask a question, but I don't think we are going to get anywhere with it.

The Witness: I am apt to ask you one back.

Mr. Dixon: Thank you very much, Mr. Strable.

(Witness excused.)

Mr. Somerville: The government calls Walter Edgar.

Walter G. Edgar, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination.

The Clerk: What is your name, please?

The Witness: Walter G. Edgar.

The Clerk: That is E-d-g-a-r?

The Witness: That is correct.

The Court: Where are you going now?

Mr. Somerville: Back to Oregon.

The Court: Oh, you are going back to Oregon?

Mr. Somerville: Yes.

The Court: I understand the weather up there is very nice this spring, although it wasn't when I was there.

By Mr. Somerville:

[fol. 1995] Q. Where in Oregon do you live, Mr. Edgar?

A. In Portland.

Q. Have you ever been employed at a service station in Portland?

A. Yes. I worked for Standard Stations there for nine years. I had a total of 10 years in with Standard Stations before I quit.

Q. You were an employee, were you?

A. Pardon?

Q. You were an employee, were you?

A. I was employed right up to the time I took my first Richfield station.

Q. When did you take a Richfield station? Or, you left Standard voluntarily?

A. Yes, I left. I made a lease on a Richfield station, or knew I could get one, and I turned in my resignation at the same time with Standard Stations, Inc., and that was in 1942, the early part, about February of 1942.

Mr. Somerville: May it be stipulated, counsel, that this was an L-O station?

Mr. Paradise: Yes, so stipulated.

By Mr. Somerville:

Q. You entered into a Form 542 lease at that time, did you?

A. That's right.

Q. Where was your station located?

[fol. 1996] A. It was at 45th and Hawthorne, the first station.

Q. At the time you took over the station, who turned over the premises to you?

A. I believe a Mr. William Parish checked the station out to me. He was the Richfield Oil Company representative.

Q. Is he the man that also negotiated this lease?

A. Yes, he is the man that contacted me and sold me on the idea of taking a Richfield station.

Q. Was there any conversation with him concerning the products that you should handle at that time?

A. Well, it was explained to me that it was a 100 per cent Richfield station, and I was supposed to sell their products exactly.

Q. Did you agree to that arrangement?

A. That's right.

Q. Did you subsequently obtain another lease of another station selling any petroleum products?

A. Yes, I had obtained it on the 23rd and Burnside station.

Q. Approximately when?

A. Approximately, oh, four to six months after I took on the 45th and Hawthorne station. I operated both stations for a while.

Mr. Somerville: May it be stipulated, counsel, that there is a Form 542 lease between Richfield, as lessor, and [fol. 1997] Walter Edgar, as lessee, covering those premises, dated March 17, 1942, and specifying a rental of $30 per month, a flat rent?

Mr. Paradise: That is correct, and it appears to be on a Form 542, with a print date of March, 1941, a copy of which is attached to the stipulation of facts.

Mr. Dixon: And which is also Government's Exhibit 1-B?

Mr. Paradise: I haven't checked that. I will.

Yes, that is also Government's Exhibit 1-B.

Mr. Somerville: May it also be stipulated that on August 22, 1942, there is a rider attached on Form 542-F, print date 4-42, specifying a flat rental of $75 per month?

Mr. Paradise: That is correct.

Mr. Somerville: And a subsequent rider executed March 21, 194[illegible] specifying $75 per month and one cent per gallon in excess of 7500 gallons?

Mr. Paradise: So stipulated.

By Mr. Somerville:

Q. Mr. Edgar, at the time you took over possession of the premises at 2304 West Burnside Street, were you instructed any further as to the products you should sell?

A. Well, I believe that it was my understanding from my previous location that it was supposed to be carried

on in the same manner as the other station, that there was supposed to be no other products except those approved by [fol. 1998] Richfield Oil.

Q. And you continued to operate both stations?

A. I did for a while, until Richfield found an operator that they thought was better, and they took the other station away from me.

Q. They did not permit you to have both stations?

A. I couldn't be both places at the same time.

Q. With respect to the station at 23rd and Burnside, did you have an investment in that station?

A. Yes, I did.

Q. And what did that consist of?

A. Well, that consisted of some of the fixtures of the station, including all the—and the merchandise and all the lubrication equipment. It was practically everything except the hoist and the pumps and the building.

Q. What would you estimate your investment was?

A. Pardon?

Q. What was the total amount of your investment?

A. It was—I don't have the exact figure, but it was over $1,000.

Mr. Paradise: How much?

The Witness: Over $1,000, I believe is right.

By Mr. Somerville:

Q. Now, with respect to your actual practice, did you abide by your agreement to sell only Richfield products?

A. Yes, I did.

[fol. 1999] Q. Did that include what is referred to as TBA products?

A. Well, I followed the regulations very closely for some time, and then due to a scarcity of items due to the war condition, I was not able to obtain enough Goodyear tires, which were an approved item, and I found a source of supply on the Zenith tires, and I carried Goodyear and Zenith as well.

I had talked to one of the merchandisers, and told him that I needed another source of supply, and I couldn't get the tires, and I had an approval at one time from one of the merchandisers that it was all right to do that.

I think there were possibly a few other items that I had that were not approved items, but they were very few.

Q. Did you at any time ever handle any competitive oil?

A. I did at one time, through the approval of Mr. Hutchinson, who was the manager of the plant, and I believe he was called the branch manager. He had charge of all the service stations, and that was before Mr. Bradford's time. Mr. Bradford took his place after he was promoted.

Q. Who is Mr. Bradford?

A. Mr. Bradford was a plant man at that time, and was a Richfield Oil Company employee.

Q. Now, with respect to the circumstances surrounding [fol. 2000] this permission granted to you by Mr. Hutchinson to handle this competitive oil, will you explain were there any conversations regarding it?

A. Yes, there were.

Q. Did you request permission to handle this oil?

A. Yes, I did.

Q. When did you make such a request, approximately?

A. Well, after I had been in the station a few months, I contacted——

Q. Where did you make that request?

A. Right on the premises of the station.

Q. And what was your reason for requesting permission to handle it?

A. I had one customer that had followed me for a period of years. He worked for Stubbs Electric Company. His name was Mr. George V. Ginty, and he had given me business, as far as his car was concerned, continuously over a period of years, but while I was with Standard Oil Company he did not buy any Standard oil, and he had to go elsewhere to get his oil changed. But when I was in business for myself he felt that I should be able to change his oil, as long as I wasn't working directly for the Richfield Oil Company, and I was what I termed a little businessman.

Q. Now, what did you say to Mr. Hutchinson, and what did he say to you in regard to that?

[fol. 2001] A. Well, I explained the situation to Mr. Hutchinson, that this man had sent numerous customers to my

station, and I had contacted him for his business, and he told me he would get me several of the men at Stubbs Electric Company, and a lot of his friends, to come up there, and he was a busy man, he was the sales manager for Stubbs Electric Company for several years, and he wanted to have it all taken care of in one operation. And I told him that I would see what I could do. And after talking to Mr. Hutchinson, I agreed, and he agreed to continue, and I would buy one case of this at a time, of Quaker State oil, I believe it was No. 20 grade, and I kept this case underneath, out of sight, under the lube bench, and this case of oil would last sometimes for six months. This man drove up and down the state pretty much, but even with that mileage, it could last longer than that, and it would be according to the mileage.

Q. Did you have any other customers that asked for Quaker State?

A. I did have, but I didn't bother with them, but just took care of this one customer on outside oil. All the other customers bought Richfield oil, I sold it to them, and while I am at it, I will tell the court that I took the station when it was doing about 5,000 gallons and I run it up to 18,000 gallons, and I did that with each station I ever had, whether [fol. 2002] for Standard Oil Company, or for Richfield.

Q. That is fine, Mr. Edgar, but please be responsive to the questions, now. With respect to these tires, these Zenith tires, first of all, was there any advantage to you in handling Zenith tires?

A. Well, it was an advantage in that I got a little better price, made a little more money out of the Zenith tire. I believe that the margin was not very much, but it was a much better tire for me to sell, in that I could guarantee it to my customers with a road warranty guarantee, such as I had sold at the Standard Oil Company with the Atlas tire, and the Goodyear tire carries a warranty guarantee, but it does not carry a road hazard guarantee. So if a man should drive out of the station and wreck the tire right after I mounted it, he had no recourse with the Goodyear, where, if he was unlucky and ruptured a tire with a road hazard break, I could adjust it immediately with the Zenith.

Q. Subsequently, was there a period when Goodyear tires were available in plentiful supply?

A. It is possible there was. I believe that's right.

Q. Did you ever experience any difficulty concerning handling of Zenith tires?

A. You mean with Richfield?

Q. Yes.

A. Well, I believe I was contacted one time.

[fol. 2003] Q. By whom, and when?

A. Sometime towards the last of my time in operating the station. I would say sometime in 1943.

Q. In 1943. Who contacted you?

A. One of the merchandisers. I don't remember all their names. There was one man named Herb Green that was a merchandiser, that contacted me, and he used to work with Standard Stations, and he said, "Well, Walt, you better keep up your Goodyear sales. The company is watching you." So I probably bought a couple of Goodyear tires at the time to take the heat off.

Q. Calling your attention to battery cables, did you handle battery cables?

A. Yes, I handled battery cables.

Q. Were they approved battery cables?

A. I believe the battery cables were all approved cables that I handled. It is possible that some of them might not have been.

There was one particular cable connection with I have brought a sample of in the court room here that the Richfield Oil Company asked me to buy through their sales organization, and they were very much of a source of trouble to every man that ever mounted any of them. I don't know if there are any members in court that ever saw any of the deals or not, but if a fellow's cable was corroded or worn some, or, according to the sales program they put out, [fol. 2004] these are supposed to be—they are——

Q. Just this, Mr. Edgar: Do you mean you did place an order for these battery cables?

A. Yes, I bought several of them.

Q. And you wanted them, did you?

A. Well, I was asked to buy more than I wanted. They contacted us several times, and they were trying to push the sale over, and I only wanted to buy a few of them, and

I was forced to buy—I say "forced to buy"—I was asked to buy more than I wanted to buy.

Q. And you did buy?

A. And I did buy more than I wanted to buy.

Q. And now are you still operating your Richfield service station?

A. No, I am not.

Q. Did you leave the station voluntarily?

A. No, I didn't.

Q. What were the circumstances surrounding your leaving the station?

A. Well, one day Mr. Bradford came in to the station——

Mr. DeMartini: Is that the same Mr. Bradford who was here on the stand today?

The Witness: That is the same man, and he started picking the station to pieces.

[fol. 2005] Mr. Paradise: Started what?

The Witness: Picking the station to pieces. In other words, finding fault with the operation of the station, and it didn't take him very long to get around to this case of Quaker State oil that was not hid. I didn't feel it was necessary to hide it, but it was still out of sight. A person would have to get down kind of low and look underneath the bench to see it.

And he said, "What is that, Edgar?"

I said, "That is some Quaker State oil I have permission from Mr. Hutchinson to keep here for one customer."

He said, "You get it out of here."

I said, "Mr. Hutchinson and I have gone over this, and I am sure it is all right with him."

He said, "I don't care what Hutchinson told you. I am running this deal now, and you get that oil out of here, and quick."

[fol. 2006] I said, "Mr. Bradford, I don't like to do that. This man has given me a lot of business."

He said, "Edgar, I will give you 24 hours to clean this station up, and if it isn't cleaned up perfectly in 24 hours, you are going out."

I said, "Mr. Bradford, I am sorry."

And he, red-faced, turned around and walked out of the station. And I worked the next day and night cleaning up

that place, inside and out. It was during wartime, and there wasn't help available. I had girls helping me at the pump lot, and I worked many hours every day, but I had the station in a position to where it would pass Standard Oil Company, and that's pretty tough.

Q. Then was it this same period that you were cautioned concerning handling the Zenith tires?

A. Oh, I surmise that was about a month before.

Q. Were you told by anyone to get rid of those tires?

A. I don't believe they told me to get rid of them, but they told me that I must sell——

Q. We are talking now about Mr. Williamson, are we? Did you say it was Mr. Williamson? I have forgotten your testimony.

A. Well, Mr. Williamson was in the station one time and told me—his name is Charles Williamson, and he was a merchandiser, and he was in the station at one time and told [fol. 2007] me the company wanted me to get them out, but at the time of the removal—of my removal from the station, I don't think they made too strong an issue of that item.

Q. Were you told why you were being terminated?

Mr. Paradise: By whom, and when?

The Witness: Yes, they——

By Mr. Somerville:

Q. Who notified you that you were being terminated?

A. Well, Mr. Bradford called me a couple of days later. He didn't come back to inspect the station after I cleaned it. He called me a couple or three days later, and he said, "Edgar, I have a little station out on Gillingsworth I want you to take."

I thought they wanted me to take an additional station, so I said, "Mr. Bradford, I have all I can do here."

He said, "You aren't going to be there any more. We are going to have to make a change."

Q. Did he tell you why?

A. And I said, "I have got it all cleaned up."

He said, "Yes, but there are too many things. You have handled different merchandise in there, and your station

isn't clean, and you wouldn't take the oil out of the station the other day, and I can't just put up with it. I have orders from up the line, and I just have to take you out of the station."

[fol. 2008] Q. Were you then served with a notice of termination?

A. Yes. I didn't get a notice of termination then, but I told him that I had put everything I had into that station to build it up, and that I didn't have any other place in mind, and I would certainly appreciate a chance to talk it over.

He said, "Well, I don't think so. I can't do anything about it."

He said, "I think this is it."

I said, "Mr. Bradford, I will do anything possible to keep this place. I have put a lot of work in it, and I have lots of good customers, and I will do anything I can."

I said, "Would it do any good to talk to Mr. Hutchinson?"

He said, "I don't think so. I am in charge now."

I said, "Well, I won't give it up."

He said, "You read your lease. You read down at the last part of it, where it says if at any time either party desires to break the contract, either party has a right to do so."

So I talked to my attorney about it, but he said, "Edgar, you're stuck." And, believe me, I was.

[fol. 2009] Q. Did you appeal your case to any of Bradford's superiors?

A. Yes, I did. I took it to Mr. Hutchinson a time or two and I called Seattle and tried to talk to the main bosses there, and I talked to the assistant division manager there. I don't know his name. But I did everything that I could to try to keep the station. I went out to see Mr. Bradford on two or three occasions at night after I was through with the operation of the station and practically got down on my knees to him.

Q. And then did you go out of the station?

A. Pardon?

Q. And then you left the station?

A. They came in to check me out a couple of days later and I had not received a written notice, and my attorney

said, "You can stay until that time." So I demanded the written notice, and two or three days later it was there.

Q. Who came around with those papers at that time?

A. I am sorry. I can't tell you the man's name that checked me out.

Q. Okay. Then at the time you left the station did you have any competitive products in your stock? You did have the tires.

A. I had the tires and I had some batteries, too. The batteries were another short item I secured from Lincoln [fol. 2010] Batteries through the same outlet that I got the Zenith tires. And I moved—when I went into the station I was forced to buy everything that man had there, and when I went out the man that took my place was not a man of experience in the service station business, as Mr. Bradford said they generally got a man to replace the fellow they were taking out that was experienced. This man was not, but anyway, they let him buy the things that he choosed, as long as they were Richfield items. Do you follow me?

Q. Yes.

The Court: What became of your other non-sponsored items, competitive?

A. I took it home and put it in my garage out at my home until I was able to lease a service station across the street from them, and it cost them several thousand gallons a month.

Mr. Somerville: That will be all with this witness.

The Court: What station did you get?

The Witness: I got the Union oil station right across the street.

The Court: The Union.

Cross-examination.

By Mr. Paradise:

Q. I take it, Mr. Edgar, you were on rather unfriendly terms with Mr. Bradford throughout this period?

[fol. 2011] A. Well, I had not been on unfriendly terms with him, with the one exception, I believe, I had called the plant for gasoline and they promised me delivery and then

it was late in coming and I called back and asked him, and he got a little bit hot under the collar at me. But I am a more or less friendly person and don't get unfriendly with anyone unless they give me a bad time.

Q. Well, actually, the fact of the matter is that you and Mr. Bradford had a fist fight together, did you not, at Mr. Bradford's home?

A. That is the case. That was several months later, however.

Q. Now, Mr. Edgar, immediately prior to moving into the first Richfield station you were an employee of the Standard Stations, Inc.?

A. That is right.

Q. That was in a station owned by Standard Oil or leased by Standard?

A. No, it was a company owned station.

Q. It was owned by Standard?

A. Yes.

Q. I see. And then you came over to Richfield and solicited one of its stations?

A. Richfield came into my Standard Oil station and solicited me to go to the Richfield station.

[fol. 2012] Q. Oh, I see. I misunderstood you earlier. Richfield asked you to come in, is that correct?

A. That is right.

Q. At the time Richfield asked you to take over this station did you know that this particular station was either owned or leased by Richfield?

A. Yes, I did.

Q. With whom did you talk?

A. I talked with both Mr. Hutchinson and Bill Parish on the first.

Q. That is concerning the first station?

A. That is right.

Q. That was at the station that was on Hawthorne Boulevard?

A. That is right.

Q. That was a 542 L-O lease which you signed on March 17th, 1942?

A. That is right.

Q. I believe you mentioned what the gallonage was at that station at the time that you moved in?

A. At that particular station, no. I didn't mention that gallonage.

Q. Forgive me for asking. I thought you had. Well, what was the gallonage on that station?

A. As I recall it, it was six to seven thousand.

[fol. 2013] Q. And did you similarly increase that one?

A. I was not there long enough to raise it. I just wasn't there long enough to do much about it. I don't believe that it was changed much.

Q. Which was the station that you mentioned that was doing 5,000 gallons per month at the time you moved in?

A. That is 23rd and Burnside station.

Q. That was the second station?

A. Yes.

Q. Which station was it? Oh, I see. The one on 23rd and Burnside, that was the lease made on March 17 of 1942. The one that you ran for only a short time was the station located on Hawthorne Boulevard and that was the one that was made on February 25, the lease was made on February 25 and terminated by a termination agreement on July 22, was that correct?

A. I believe that is right.

Q. Is it not correct that the rental called for by your lease on the station on Hawthorne was a flat $10 per month?

A. When I first went in it was.

Q. Was it ever changed?

A. Yes, I believe it was.

Q. When was it changed?

A. I am sorry, I can't give you that information.

[fol. 2014] Q. How long were you in that station?

A. About, I believe it was six months all together. I could be wrong on that figure. You have it there, don't you?

Q. Isn't it a fact that $10 a month was all you ever paid for that station?

A. It could be right.

Q. And during that time while you were in there did you not have a gallonage never less than 8,800 gallons per

month, and didn't it also go up to almost 12,000 gallons per month?

A. I couldn't tell you for sure on that.

Q. You have no recollection?

A. I don't remember, sir.

Q. Was the station that we are now talking about, where you paid the $10 rental, is that the one where you said you had a thousand dollar investment?

A. No, that was the 23rd and Burnside Station, my investment at that place. I believe I have a copy of it here if you would like to know it.

Q. No. I was just interested in tying down which station it was where you had the $1,000 investment.

The Court: Which station were you checked out of, now?

The Witness: It was over—this is just a conditional sales contract that I took over for equipment on that station, [fol. 2015] and it was $540 for equipment and the merchandise was in excess of that.

The Court: When you were checked out what did you get? How much stock were you paid for? You said you took some of it to your house. Do you remember how much you were paid by the incoming operator?

The Witness: No, I can't say for sure.

The Court: For the stock on hand, for the Richfield items?

The Witness: No.

The Court: All right, let us go on from there. I thought maybe you had it there.

By Mr. Paradise:

Q. The Hawthorne station was the first one you moved into?

A. That is right.

Q. At the time you signed this form of sublease you had a discussion with Messrs. Parish and Hutchinson about it, you say?

A. Yes.

Q. They explained to you, did they not, that you were to be required to adhere to Richfield's policy and operate the station in the manner in which Richfield directed?

A. That is right.

Q. And this lease contains a clause permitting Richfield to terminate it or you to terminate it on 24 hours notice?
[fol. 2016] A. I was not aware of that clause at the time that I signed it, but——

The Court: You found out later?

The Witness: Yes, and it was agreeable with me due to the fact that I had a help problem out there and I couldn't run the place as I would like to have it run.

By Mr. Paradise:

Q. With respect to this station on Burnside, the rental provisions of which Mr. Somerville read into the record while he examined you, is that the station where you said you had a thousand dollar investment?

A. Yes.

Q. What did that thousand dollar investment consist of?

A. Well, it consisted of the gas in the tanks and the lube oil in the tanks and the merchandise on the counters and the toilet paper dispenser, the wastepaper basket in the rest room and the towel dispenser—practically everything with the exception of the major equipment, including all the grease guns. And I am not positive about the lube oil tanks, whether it included those or not. I can't remember that item.

Q. All of the things you owned consisted solely of movable tools and equipment, did it not?

A. I guess those dispensers could be unscrewed from the wall.

Q. When you said you owned the fixtures you did not mean to indicate that you owned any of the tanks or the pumps?
[fol. 2017] A. No.

Q. Nor the building?

A. Nor the building.

Q. Nor any of the chief items of equipment in that station?

A. No. I said that I didn't own those.

Q. This is the station which you mentioned that you built up from 5,000 gallons when you moved in to 18,000 gallons a month?

A. Yes, that was an estimated figure. It was somewhere within that radius.

Q. Mr. Edgar, I will show you a tabulation of figures, the top half of which down to a line which I will draw clear across the page relates to the station on Hawthorne Boulevard in Portland, Oregon, and the bottom portion of which relates to the station that you have just described on West Burnside. On the column on the left-hand side it gives each month, and on the column on the right-hand side immediately opposite the name of the month it gives a column of figures representing gallonage. I will ask you if these are not the accurate figures of the gallonage at that station during the time you occupied it?

A. That is the start of 1942 (indicating on paper) April, May, June, July?

Q. Are you asking me a question?

A. Yes, I am asking you. This is the 23rd and Burn-

[fol. 2018] side station?

Q. If you are calling attention to the Burnside station, the first item in the column is April 1942 and the corresponding figure for that month is 15,900.

A. That was supposed to be the first month that I took over?

Q. Well, I am asking you is that correct? Do those figures represent the figures?

A. I do not believe it is correct, sir.

Q. What about the other figures on the sheet?

A. The last year I had it, I know the station averaged 18,000 gallons, so these figures on there are not correct.

Q. None of those figures are correct?

A. I don't believe so.

Q. Did you purchase gasoline from anyone other than Richfield?

A. No, I did not.

Q. Do you have any clearer recollection after looking at these figures as to what the gallonage was at that station when you first moved in, the Burnside station?

A. I know the gallonage was low and I know that it was very low. The gallonage, in my recollection, was just approximately eight to ten thousand gallons after I went in there.

Q. You testified before it was 5,000. Was it close to [fol. 2019] that?

A. Well, I might be wrong on that exact amount, but it was not over eight.

Mr. Paradise: I will ask that this be marked as Defendant's Exhibit next in order for identification.

The Court: It may be.

The Clerk: Defendant's Exhibit I marked for identification.

(The document referred to was marked Defendants' Exhibit I for identification.)

Mr. Paradise: That is all.

The Court: All right, any redirect?

Mr. Somerville: Just a question or two.

Redirect examination.

By Mr. Somerville:

Q. Mr. Edgar, the court was interested in the amount of your investment at the time that you were checked out. Can you tell us approximately how much you had invested in your stock and equipment at that time?

A. Well, the tanks were practically empty. I know when I moved in there that the oil tanks were practically empty. I say "practically empty," they were low because the men were contemplating a change and they didn't have any more investment in there than was necessary, because they wanted to hold it down at the time the move for exchange in operators was made, and the gasoline supply was low and the oil supply was low. When I went out it was high, [fol. 2020] so it would have made considerable difference. There was probably, my stock in the station was probably $1,500 when I moved.

Q. What did you realize from your sale of equipment and products to the new operator?

A. As I remember, it was around $1,200, but I don't have that figure here. I am sorry.

Q. Going back to the time that you took over the lease, the first lease, did you say that it was Mr. Parish who so-

licited you to take a lease at the time you were a Standard Station employee?

A. Yes. He offered me a cent a gallon more than the company actually gave me. He said it was a misunderstanding on his part and I went—I got my first gas delivery the day I went out to the station, and I called the driver on it right away. He said, "Well, Edgar, all I do is make deliveries. You will have to talk to the boss." So I went down to see the boss. And I held that over them, and that is why they didn't raise the $10 out there. I recall my memory of that.

Q. Confining your answer to this particular station, did you have a share in the profits of the operation of the Standard station?

A. No, I didn't.

Q. Merely a salary?

A. Well, I will put it this way: I was a salaried man [fol. 2021] with a commission. All Standard stations are operated on salary and commission in order to promote sales. The salary is your basic pay.

The Court: I do not think we are interested in that.

Mr. Somerville: That is all.

The Court: The only reason I asked that is to see whether he suffered any loss, and he was not able to tell us how much he got when he left, so he can't tell. All right, step down, Mr. Edgar. Call your next witness.

Mr. Somerville: The Government calls Mr. Scollard.

Jacob C. Scollard, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: What is your name, please?

The Witness: Jacob C. Scollard.

Mr. Paradise: Your Honor, I do not want to interrupt the course of the trial but there was a matter of redirect examination of Mr. Edgar. May I ask him a few questions before he leaves the courtroom?

The Court: All right, you step down for the moment. Sit in one of the chairs in the jury box. Come back, Mr. Edgar, before you might be on your way to Portland. All right.

Mr. Paradise: Your Honor had just indicated in response to counsel's last question that your Honor was not interested in this subject, but I take it from counsel's ques-
[fol. 2022] tion that this is a part of the theory of their case, and that is the reason——

The Court: No, no, I was not interested in a comparison between what he was doing at Standard.

Mr. Paradise: That is what I was getting at.

The Court: I was interested in finding a comparison between what he called his investment when he went in and what he got when he left.

Mr. Paradise: I was directing my attention to the other item.

WALTER G. EDGAR (Recalled).

Redirect examination.

By Mr. Paradise:

Q. What was the nature of the commission over and above the salary that you received while you were at the Standard station?

Mr. Somerville: I will object to that.

The Court: I will sustain the objection. I am not drawing an inference as to the tactics of the generosity of the stations. That is not before me. All right, step down. Let us go ahead with Mr. Scollard.

[fol. 2023] JACOB C. SCOLLARD (Recalled).

Direct examination.

By Mr. Somerville:

Q. What is your name, sir?

A. Jacob C. Scollard.

Q. Where do you reside?

A. Portland, Oregon.

Q. Have you at any time held any position in the employment of the Richfield Oil Corporation?

A. Yes.

Q. What was your position?

A. Salesman.

Q. Where were you a salesman?

A. Portland, Oregon.

Q. And as salesman did you contact the dealer accounts?

A. Dealer type stations, yes, sir.

Q. When you refer to dealer type stations do you mean stations under paint and sales contracts or 3-C stations?

A. Yes, sir.

Q. You are familiar with those types of agreements, How many such stations were under your jurisdiction?

A. Well, I had about 15.

Q. Who was your immediate superior?

A. Mr. Bradford.

Q. What was the period you were employed as a salesman?

[fol. 2024] A. July 1st '45 until July 1st '46.

Q. Were there also merchandisers employed in Portland?

A. Yes.

Q. And what category of stations did the merchandisers supervise?

A. Well, they were L-O units.

Q. Did you have any meetings with Mr. Bradford or other merchandisers or salesmen?

A. Yes, every morning.

Q. Every morning. And where did those meetings occur?

A. On 12th and Sandy Boulevard.

Q. At those meetings were specific problems concerning competitive products or competitive signs in stations handling Richfield's gasoline discussed?

A. Yes.

Q. Was the Richfield TBA program discussed?

A. Yes.

Q. What was your report concerning particular competitive problems with respect to the stations that you supervised or that you contacted?

A. Well, yes, I would.

Q. Would you report incidents in which competitive signs might be displayed on the dealer type stations?

A. Well, there was Wall Street Auto Service on North Lombard which is under Kawalski Brothers.

[fol. 2025] Q. Do you remember when you reported that at one of these meetings?

A. That was about March of '46.

Q. Did you receive any instructions from Mr. Bradford?

A. Yes.

Q. At any time? What were they?

A. It so happened that this competitive sign was on one of our A-frame boards and I removed it.

Q. Calling your attention to the service station operated by Mr. Carver at Southeast 82nd?

A. The same thing applied to that station.

Q. When did that occur?

A. That was about June of '46.

Q. Did you receive instructions from Mr. Bradford?

A. No. Those instructions came from Mr. Cresswell who was then branch manager.

Q. He succeeded Mr. Bradford?

A. Yes.

Q. With respect to the TBA program of Richfield, at these meetings were there any discussions as to whether Richfield service stations would be permitted to handle any but the approved TBA merchandise?

A. Oh, yes.

Q. And when did those discussions occur?

A. Well, they occurred usually on a Thursday morning [fol. 2026] when they had the TBA meetings.

Q. They were repeated occurrences during the whole period of your employment?

A. Yes.

Q. Did Mr. Bradford at any of these meetings explain what the policy was in that regard?

A. Well, yes, he would.

Q. And what did he say the policy was?

A. Well, that they were to handle just nothing but approved merchandise.

Q. Who were some of the other people present at these meetings? I realize there may have been some changes.

A. Well, Mr. Radke, Ed Radke, and Mr. Bert Gates.

Q. Who was Mr. Radke?

A. He was a distributor, a TBA distributor, and Mr. Gates was also a distributor. And there was Mr. Lalande,

Mr. Miller, and there was several others but I don't recall all their names.

Q. Who were Mr. Lalande and Mr. Miller?

A. They were TBA—well, I don't know what they call them.

Q. Would they be merchandisers?

A. Merchandisers, TBA merchandisers.

Q. Would Mr. Foster ever attend these meetings?

A. Yes.

[fol. 2027] Q. And would he have anything to say about the policy?

A. Yes.

Q. How often did he attend the meetings?

A. Well, approximately, I think about three times while I was with the company.

Q. Do you recall any particular time?

A. Well, no, I really don't. I couldn't.

Q. Was there some acceleration in the TBA?

A. Well, the first time he was there was about two months after I went to work, which would have been about September.

Q. What did Mr. Foster say about the TBA program with respect to whether TBA should be sold to stations handling Richfield gasoline?

A. Well, he was quite strict to see that that was all they handled, just approved merchandise.

Q. Did you make reports of the sales of gasoline and petroleum products at your stations under your jurisdiction?

A. Yes, I did on lubricating oils and greases, but not on gasoline.

Q. Were there TBA sales at particular stations discussed during the course of these meetings while you were there?

A. Yes.

Q. Calling your attention to a service station operated [fol. 2028] by an F. Milton Boyer at Lombard and Albino, are you familiar with this station?

A. Yes.

Q. Do you recall any instance that came up for discussion in any of these meetings concerning that operator?

A. Yes, several times.

Q. And about when did that occur?

A. Well, that was the first part of '46. It would be around January or February.

Q. And at that time were the other merchandisers and Mr. Bradford present?

A. Yes.

Q. And what was said and by whom?

A. Well, it was reported by Mr. Miller, one of the merchandisers, that he was carrying tires purchased from—Zenith tires, I think they were—from Marshall Wells, and they were not approved by Richfield.

Q. Was there any action taken at the meeting?

A. Well, yes. Mr. Miller was told to——

Q. By whom?

A. By Mr. Bradford to have him take the tires out. It so happened I went with Mr. Miller down to this station and told him.

Mr. Paradise: What station?

Mr. Somerville: Lombard and Albino.

[fol. 2029] The Witness: Mr. Boyer.

Mr. Somerville: Mr. Boyer.

A. Mr. Miller went in there and Mr. Boyer was quite angry. In fact, he chased him off the lot with a wrench. That was as far as I went with the case; I left.

The Court: No wonder he went into the real estate business. Probably the insurance rate would go up, at that rate, not to speak of his blood pressure.

By Mr. Somerville:

Q. Didn't the matter come up again for discussion?

A. Well, yes, it did. Mr. Bradford left a short time after that and Mr. Cresswell took over.

Q. Do you know whether or not——

A. Yes, they checked this man out of the station about 30 days later.

Q. What reason was assigned?

A. Well, I think it was due to the fact that he was carrying these off-brand tires.

Q. Calling your attention now to a service station oper-

ated by Fred Erz, 630 Northeast Union, that was a leased out station, wasn't it?

A. Yes, sir.

[fol. 2030] Q. You are familiar with Mr. Erz?

A. Yes, I was.

Q. Was there ever any situation involving competitive products that was discussed in this meeting concerning this station?

A. Something about fan belts, that he was carrying fan belts.

Q. When did that discussion occur? Can you fix any time?

A. I think that was about in March, of '46.

Q. What were the discussions?

A. Well, that he was carrying these fan belts, and wasn't——

Q. Who had reported he was carrying them?

A. Mr. Ogden.

Q. And then what happened?

A. Well, they tried to get him to take them out.

The Court: What character of station was this one,—an L-O station?

The Witness: An L-O station.

The Court: And the other one?

The Witness: An L-O station.

The Court: Boyer was also an L-O station?

The Witness: Yes, sir.

By Mr. Somerville:

Q. Did Mr. Radke, the TBA distributor, and Mr. Gates, [fol. 2031] the TBA distributor, inform you of any specific cases where TBA sales were known of competitive products.

A. No, sir.

Q. Would they normally report these situations in these meetings?

A. Well, yes. They wouldn't to me, though; to Mr. Bradford.

Q. Were they the subject of discussion?

A. Yes.

Q. Was Mr. Gates a TBA distributor throughout the period that you were there?

A. Yes.
Q. And also Mr. Radke?
A. Yes.

Mr. Somerville: That will be all, Mr. Scollard.
The Court: Cross examine.
Mr. Somerville: Oh, one more second.

By Mr. Somerville:

Q. Just one more thing, Mr. Scollard. I forget now whether you brought this out, but with respect to the Kawalski and the Carver station, were those dealer type stations?
A. Dealer type stations.
Q. That is, they had a paint contract and a sales contract?
[fol. 2032] A. Yes.

Mr. Somerville: Thank you.
The Court: I followed that as to the first two stations. All right.

Cross-examination.

By Mr. Paradise:

Q. These meetings that you testified to, Mr. Scollard, those were attended by merchandisers and salesmen?
A. Yes.
Q. It is correct, is it not, that the merchandisers have nothing to do with the dealer stations and only work with the L-O stations?
A. That is right.
Q. And it is also correct that the salesmen have nothing to do at all with the Richfield L-O stations?
A. That's right.
Q. And they only contact the so-called dealer stations?
A. Yes, sir.
Q. Am I right?
A. That's right.
Q. When you said you had 15 stations under your jurisdiction, what did you mean by that?

A. Dealer stations to call on for the sale of lubricating oils and greases.

[fol. 2033] Q. These were the people who were your customers?

A. Yes, sir.

Q. Did you sell them anything other than lubricating oil and grease?

A. And gasoline.

Q. You sold them gasoline, also?

A. Yes.

Q. Now, which were the two stations where you said you removed signs?

A. The Wall Street Auto Service on North Lombard.

Q. And who was the dealer who owned or leased that station?

A. Kawalski Brothers.

Q. Kawalski?

A. Yes.

Q. And what was the name of the other one?

A. Carver.

Q. The Carver station?

A. Emerson Carver.

Q. What was the first name?

A. Emerson Carver.

Q. Emerson. Now, what were the circumstances of your removing the sign from the Kawalski station? Had you talked to Mr. Kawalski before that?

A. Yes, I had. It was a Richfield A-frame board that [fol. 2034] I had just previously put on some Richfield advertising.

Q. I see. It was a Richfield sign board?

A. That's right.

Q. Why did you remove it?

A. Well, because he put a Quaker State sign over the sign of Richfield.

Q. I see. This was one of these big A-boards that belong to Richfield?

A. That's right.

Q. And Mr. Kawalski plastered something over it, and so you took it off the station?

A. Yes, sir.
Q. That was all that was involved?
A. Yes, sir.
Q. What was the situation with Mr. Carver?
A. The same thing.
Q. Mr. Carver had pasted something on Richfield's own piece of property that was loaned to Mr. Carver?
A. Yes, sir.
Q. So you had instructions to remove it?
A. Yes.
Q. And that is all?
A. That's right.

Mr. Paradise: That is all.

[fol. 2035] Redirect examination.

By Mr. Somerville:

Q. One question: Were there any dealers under your jurisdiction that were handling gasoline of Richfield on any basis except 100 per cent?

Mr. Paradise: Wait a minute. I object to that.
Mr. Somerville: I will withdraw that.

By Mr. Somerville:

Q. Were there any stations under your jurisdiction that handled any competitive gasoline?
A. No.

Mr. Paradise: May I object to counsel's use of the word "jurisdiction."
The Court: Well, with whom you dealt, not "jurisdiction."
The Witness: You mean, had Richfield and some other gasoline?
The Court: Yes.
The Witness: No.
The Court: All right.
Mr. Paradise: No further questions.
The Court: Step down.

(Witness excused.)

The Court: Now, we have had a very long day, gentlemen, and you will notice I improved my hours this afternoon. I didn't stay away so long. Things are easing up in chambers. [fol. 2036] Now, unless you have a very brief witness, we are ready to adjourn.

Mr. Somerville: We do have one, and I think we might as well get rid of him.

The Court: Where is he from?

Mr. Somerville: He is from Portland also.

The Court: Also from Portland. Now, make it brief. If you go too long, I will cut you off.

Mr. Somerville: I will guarantee it, your Honor.

The Court: All right.

Mr. DeMartini: That doesn't limit us, your Honor. We don't know who this witness is.

The Court: I am not talking to you. You are only a defendant. I can talk like a Dutch uncle to the government. If he opens up too much, why, we will continue over. We will see, anyway.

Mr. Somerville: I had a longer witness who really precedes him so far as order is concerned.

The Court: That is all right. We will put him on out of order. I have kept track of the witnesses and this is our twenty-ninth witness, according to my count.

[fol. 2037] Ronald D. Bowe, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination.

The Clerk: What is your name, please?

The Witness: Donald D. Bowe.

The Clerk: Spell the last name?

The Witness: B-o-w-e.

By Mr. Somerville:

Q. Mr. Bowe, have you ever been the lessee of a Richfield service station?

A. Yes, I have.

Q. Are you now a lessee of a Richfield Service station?
A. Yes, I am.
Q. Where is that station located?
A. 8110 North Lombard.

Mr. Paradise: Will you speak a little louder, please?
The Witness: 8110 North Lombard.
The Court: Portland, Oregon?
The Witness: Portland, Oregon.

By Mr. Somerville:

Q. Do you also have a partner?
A. Yes, I do.
Q. Both of you have that lease together?
A. Yes.
[fol. 2038] Q. When did you enter into that lease?
A. Either October or November of 1948. I have forgotten which month.

Mr. Somerville: Will it be stipulated this is a Form 542 lease, dated September 29, 1948?
Mr. DeMartini: Yes, bearing print date 1-47.

By Mr. Somerville:

Q. Now, Mr. Bowe, at the time you took over the possession of this station, was it a new station?
A. Yes, it had just been built.
Q. And who turned over possession of the station?
A. Mr. Arnold Espey, one of the merchandisers in that district.
Q. Is he the man who negotiated the lease?
A. Yes.
Q. Was anything said at the time he turned over the possession concerning the products that you were to sell?
A. Yes.
Q. What was said with respect to whether you could sell or not sell particular products?
A. Well, it was listed as 100 per cent Richfield products and TBA.
The Court: Now, of course, we know from others, but tell us what you were told that that meant.

The Witness: Well, we should handle nothing but Rich-
[fol. 2039] field gas, oil, and greases, and our TBA would be gotten through a Richfield distributor.

The Court: A Richfield distributor. They were their sponsored products——

The Witness: Yes.

The Court: —that Richfield handled through their distributors?

The Witness: Yes.

The Court: All right.

By Mr. Somerville:

Q. Were you told the distributor to deal with?

A. Yes, we were told to deal with Bert Gates.

Q. And did Bert Gates supply you with any stock?

A. Yes, he supplied us with all our stock on the opening inventory.

Q. How much did you have invested in this station at that time?

A. You mean TBA and everything?

The Court: Well, everything.

The Witness: Everything,—approximately 5,000, I think.

By Mr. Soverville:

Q. That included equipment and merchandise?

A. Yes.

Q. Now, calling your attention to the stock supplied to
[fol. 2040] you by Mr. Gates, was there any stock there that was non-approved merchandise?

A. Well, most of it was approved merchandise. There was an item or two that wasn't on the approved list.

Q. What were those items, do you recall?

A. 50-foot hoses, regular garden hoses, and, right offhand, I can't think just what they were.

The Court: Were you selling those?

The Witness: No, just used them in the station to wash down the station.

By Mr. Somerville:

Q. Were there mufflers?

A. Oh, mufflers and tail pipes were not approved items.

Q. Subsequently did you call that to Mr. Gates' attention?

A. Yes. On the hoses I don't recall whether I did or not. On the tail pipes and mufflers.

Q. What did Mr. Gates say?

A. He said that was O. K.

Q. Subsequently did you have anyone from Richfield call your attention to the fact that they were unapproved items?

A. Yes, I did.

Q. Who called it to your attention, and when?

A. Well, Herb Miller, for one, and I think Arnold Espey. I couldn't say for positive who the other one was.

[fol. 2041] Q. Was that a short time after?

A. Right afterwards.

Q. What was said to you about that?

A. They were just mentioned to me, that they were not approved items on the list.

The Court: The same items that you mentioned?

The Witness: Yes.

The Court: I see. Did they tell you anything more about that?

The Witness: No.

The Court: What did they say,—to get rid of them?

The Witness: No.

The Court: Or replace them?

The Witness: There was nothing else said.

By Mr. Somerville:

Q. Did you purchase any more?

A. No, I don't think so.

Q. Generally speaking, have you since that time purchased only approved products, when available?

A. Yes.

Mr. Somerville: That will be all. I have kept my promise, your Honor.

The Court: All right. Just a minute. The other counsel

may want to ask you some questions. You are going too fast now.

[fol. 2042] Cross-examination.

By Mr. DeMartini:

Q. When you took this station, Mr. Bowe, were you advised at the time of the installation by the Richfield merchandiser that you would be expected to operate the station in accordance with Richfield policies?

A. Yes, sir.

Q. And you understood there was a 24-hour termination privilege in there?

A. Yes.

Q. And that could be exercised by Richfield if you did not operate the station in accordance with its policies?

A. Yes, sir.

Q. What is your present occupation?

A. I am a Richfield employee. I am a merchandiser.

Q. How did you come to be a Richfield merchandiser?

The Court: I presume he was promoted.

Mr. DeMartini: That is what I wanted to ask him.

The Witness: During the past couple of yours I have been requested—not requested, but asked several times if I would care for the merchandising job, and I finally accepted it.

My Mr. DeMartini:

Q. And you consider it a promotion?

A. Yes.

[fol. 2043] Q. When you——

The Court: Are you going to destroy the good business relations existing between you and this witness? I will report you to Charlie Jones.

By Mr. DeMartini:

Q. What did the $5,000 investment consist of?

A. Gas, petroleum products, and TBA, lubrication equipment or equipment at the station.

Q. When you left the station, did the incoming operator purchase most of that?

A. I still have the station.
Q. You still have the station?
A. Yes.

Mr. DeMartini: Oh, I am sorry.
The Court: He has a partner, he says, so evidently this partner is running the station, and you are doing the merchandising?
The Witness: Mostly, yes.
The Court: I see.

By Mr. DeMartini:

Q. What was this unapproved merchandise you referred to? What did it consist of?
A. A couple of garden hoses, mufflers and exhaust pipes. I think that was it, mostly.
Q. That is not unapproved merchandise?
A. No, it is approved merchandise, but——
[fols. 2044-2047] Q. It was just not——
A. It was made by the wrong companies.
Q. It is not on the credit card list, is it?
A. No, we can put them on credit cards, but they weren't made by the correct company that was approved by Richfield.
The Court: The hoses were not for sale, were they? You were just using them to keep the place clean?
The Witness: Yes.
The Court: The others were for sale?
The Witness: Yes.
Mr. DeMartini: Thank you. That is all.
The Court: Anything else?

Redirect examination.

By Mr. Somerville:

Q. You do get a salary now?
A. Yes.

Mr. Somerville: I see. That is all.
The Court: All right, gentlemen. We are going very fast. We will take our regular recess now until tomorrow morning at 10:00 o'clock.

(Whereupon, at 5:08 o'clock p. m., Wednesday, May 16, 1951, an adjournment was taken until 10:00 o'clock a. m., Thursday, May 17, 1951.)

[fol. 2048] Thursday, May 17, 1951. 10:00 A. M.

The Court: Cause on trial, gentlemen.
Call your next witness.
Mr. Somerville: The government calls Bert Gates.

Bert W. Gates, called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

Direct examination.

The Clerk: What is your name, please?
The Witness: Bert W. Gates.
The Clerk: G-a-t-e-s?
The Witness: Yes, sir.
The Clerk: And is Bert spelled B-e-r-t?
The Witness: Right.

By Mr. Somerville:

Q. What is your name?
A. Bert W. Gates.
Q. Where do you reside?
A. Portland, Oregon.
Q. Mr. Gates, what is your present business?
A. I am a wholesale auto parts jobber.
Q. How long have you been in that business?
[fol. 2049] A. A little over five years.
Q. Have you ever operated a service station handling Richfield petroleum products?
A. Yes, sir.
Q. When?
A. I operated a service station from 1921 until January 1, 1946. I didn't handle Richfield all of that time, of course.

Q. Calling your attention to the period about 1944 or 1945, did you have a Richfield station?

A. Yes, sir.

Q. A station handling Richfield gasoline at that time?

A. Yes, sir.

Q. What sort of an arrangement did you have with Richfield, what sort of papers?

A. Well, I really don't know the type of contract, other than I owned the property and the improvements, and I leased to Richfield, and they, in turn, leased back to me, under what I believe has been referred to as a dealer contract.

Q. At any time, Mr. Gates, were you engaged in the capacity as an authorized TBA distributor, handling Richfield approved TBA merchandise?

A. Yes, sir.

[fol. 2050] Q. Did you have any contract, written contract, with Richfield concerning this distributorship?

A. No, sir.

Q. Did you have some sort of an oral understanding or arrangement?

A. Yes, sir.

Q. Would you tell us about the time that you first were approached concerning this distributorship?

A. As I remember, sir, it was in 1943.

Q. Who approached you concerning it?

A. Mr. Bradford.

Q. Where did that occur?

A. In my place of business.

Q. At your service station?

A. Yes, sir.

Q. What did he tell you at that time?

A. He asked me if I would be interested in being a TBA distributor for Richfield.

Q. At that time was there a TBA distributor designated in Portland?

A. Pardon? I didn't get that.

Q. At that time was there a TBA distributor in Portland, an authorized distributor for Richfield?

A. You mean other than myself?

Q. Yes.

[fol. 2051] A. Yes, a Mr. Radke was also a distributor.

Q. Mr. Bradford was the man that negotiated the terms of this arrangement?

A. Yes, sir.

Q. What did he tell you concerning the products that you would handle?

A. That I should handle the approved TBA products of Richfield.

Q. What, generally, were described as approved products?

A. Well, at that time, sir, it was mainly Goodyear tires and Goodyear batteries.

Q. Did you have any other discussions with any other representative of Richfield concerning your acting as TBA distributor?

A. Yes, sir, Mr. Foster.

[fol. 2052] Q. And who was Mr. Foster, sir?

A. Mr. Foster was the northwest head of the TBA setup for Richfield.

Q. Where were his offices?

A. In Seattle.

Q. Did you go to Seattle to talk to him concerning it?

A. I did in December of 1945.

Mr. Paradise: Of what year?

The Witness: December of 1945.

By Mr. Somerville:

Q. Was that at the Richfield offices there in Seattle?

A. Yes, sir.

Q. Were any other parties present?

A. No, sir.

Q. At that time had you actually started to engage in the business of handling the authorized products as a distributor of Richfield?

A. Not exclusively. I was still in the service station business at that time along with the TBA distributorship.

Q. At the time that you talked to Mr. Foster was there any discussion concerning the products that you could or could not sell to Richfield—well, to any type of service station handling Richfield gasoline?

A. Yes, there was this type of discussion.

Q. Will you tell us what Mr. Foster said in that regard? [fol. 2053] A. Mr. Foster informed me that if I expected to be—wanted to be a TBA distributor and to continue on as one, that I would have to handle only Richfield approved TBA products.

Q. And had you been handling other products along with Richfield?

A. No, sir.

Q. Did Mr. Foster at that time say anything about the particular outlets that you were to sell, about the particular outlets handling Richfield gasoline?

A. Well, we had quite a discussion at that particular time and they wanted the TBA distributors to go out of the service station business and go into the TBA distributorship exclusively, which we talked at quite some length about. And Mr. Foster agreed that if I would go out of my service station entirely and become an exclusive TBA distributor for Richfield, that the City of Portland would be divided 50 per cent for myself and 50 per cent for Mr. Radke.

Q. And was it Mr. Foster who designated the particular stations that you would supply?

A. The city was to be divided geographically.

Q. Did Mr. Foster make that determination or someone else?

A. Yes, sir.

Q. And approximately how many service stations were [fol. 2054] you to supply?

A. As I remember, at that time there was approximately 65 or 70 Richfield units in the City of Portland in the metropolitan area, and approximately half of those were to have been my stations that I was to serve.

Q. In these stations in your part of the geographical territory assigned to you—first, let me ask you a preliminary question. Are you familiar with what we mean when we refer to a leased out station? Do you know what type of station that is?

A. I believe I do, sir.

Q. Do you know what a dealer type of station is?

A. Yes, sir.

Q. That is a station which has a sales contract and paint agreement with Richfield?

A. Yes sir.

Q. You are aware of the distinction between the two classes?

A. You mean of your leased out station, the so-called L-O station?

Q. Yes, sir. With respect to the stations in your area, did it include stations of those categories?

A. Yes, sir.

Q. In the discussions with Mr. Foster was there anything said about whether you could sell competitive items to [fol. 2055] any stations?

A. Yes, sir.

Q. What was said?

A. That I was to handle only Richfield approved products.

Q. Thereafter you stocked approved products, did you?

A. Yes, sir.

Q. How would you order those products?

A. Well, some of them were ordered through Richfield, some of them from Goodyear Tire & Rubber Co.

Q. On those orders from Goodyear Tire & Rubber Co. were they ordered on Richfield's order blanks?

A. No, sir, other than tires and batteries.

Q. Where did you receive your supplies from Goodyear? Do you know how the shipments were made?

A. Yes. We received them from the Portland warehouse, Goodyear warehouse.

Q. Where did you receive the items that you ordered directly from Goodyear?

A. From the factories direct.

Q. Do you happen to know—take an item like tires, where did they come from?

A. They came from Goodyear Tire & Rubber Co. in Portland.

Q. Were they manufactured at that place, do you know?

A. No. That was their warehouse.

[fol. 2056] Q. Were you receiving any shipments of automotive accessories from outside the State of Oregon?

A. Yes, sir.

Q. What were some of those items?

A. Champion Spark Plugs, Purolator Oil Filters, and Max Polishes were some of them.

Q. After you stocked approved products, then you commenced supplying the needs of the particular station assigned you in your territory, is that correct?

A. Yes, sir.

Q. Mr. Gates, were you required to sumbit reports to anyone in the Richfield organization of the sales that you made of TBA products?

A. Yes, sir.

Q. To whom did you submit those reports?

A. To the office in Seattle. That would be, originally it was Mr. Foster, and he was succeeded by Mr. Buck.

Q. I show you Government's Exhibit No. 7 and ask you if that form or any form similar to that is the form that you used?

A. Yes, sir, that is the form that we used.

Q. With respect to that form, Mr. Gates, did you have any discussions with anybody concerning the amount of sales to any particular outlet you were supplying?

A. Yes, sir.

[fol. 2057] Q. Who would those discussions be with?

Mr. DeMartini: Will you fix the time, Mr. Somerville?

Mr. Somerville: Yes, I will do that.

A. Well, as I remember it now, we met approximately every Thursday morning at 12th and Sandy in Portland with the branch manager from Portland and his salesmen and merchandisers and Mr. Foster or Mr. Buck from Seattle if they were in the city.

[fol. 2058] Q. Now, who was the branch manager?

A. At that time it was Mr. Bradford.

Q. Approximately what period was he branch manager?

A. I believe from about '42 or '3 to 1947, somewhere in there.

Q. Now, were there any other people present at these meetings?

A. I don't quite understand.

Q. I say, at these Thursday meetings——

A. Yes.

Q. —who else would be present besides the branch manager? Give us some names.

A. Oh, some names?

Q. And their capacities, if you will.

A. Mr. Scollard, who was one of the salesmen, and Mr. Kenneth Miller, who was one of the merchandisers; also, a man by the name of, I believe, George Parish, and a man by the name of Lalande, he was a merchandiser. They were some of them. I don't remember all of them.

Q. And Mr. Radke, your co-distributor?

A. Yes, and Mr. Radke, of course.

Q. Now, was the nature of the discussions similar with respect to each Thursday meeting?

A. Very much on the same.

Q. And you discussed the particular problems encoun-
[fol. 2059] tered at the stations?

A. Yes, sir.

Q. At any of those meetings did Mr. Bradford say anything concerning the enforcement, or did he say anything in regard to whether the 24-hour termination provision,—first of all, were you aware of the fact that there was a 24-hour termination clause in the leases to L-O operators?

A. Well, I understood there was some cancellation there. Whether it was 24 hours, or 48 hours, I didn't know, sir.

Q. Were there some discussions concerning that?

A. Mr. Bradford made the statement at the start of this expanded TBA program that he was going to put over this program if he had to check out every operator in the city of Portland.

Q. Did he explain at that time whether non-approved merchandise would be authorized for any station?

A. Not to my knowledge, it was never authorized by——

Mr. Paradise: I didn't hear that last statement.

The Witness: I said that, to my knowledge, was never authorized by any Richfield representative.

Mr. Paradise: May I ask that the question also be read?

(The record was read.)

The Court: You are repeating his statement?

[fol. 2060] The Witness: I beg pardon?

The Court: You are repeating his statement?

The Witness: Mr. Bradford's statement?
The Court: Yes.
The Witness: Yes, sir.
The Court: All right.

By Mr. Somerville:

Q. Now, I believe you testified that you did discuss this report of sales at these Thursday meetings?
A. Yes, sir.
Q. Would you be questioned concerning sales of any particular dealers or operators?
A. Yes, sir.
Q. What would be the nature of the questions that were raised?
A. Well, it showed on those reports the number of spark plugs, and tires, and batteries, and if some particular station of mine happened to be low, that is, purchases had been low for the month previous, I was usually questioned about it, as to why I hadn't sold him more.
Q. Were you questioned concerning whether those outlets were handling competitive merchandise?
A. Yes, sir.
Q. Were there some instances in which there were competitive items?
[fol. 2061] A. Yes, sir.
Q. And you would make a point of reporting those?
A. Yes, sir.
Q. They would be discussed?
A. Yes, sir.
Q. And some action taken with respect to them?

Mr. DeMartini: I will object to that as calling for a conclusion of the witness.
Mr. Somerville: I will withdraw that.

By Mr. Somerville:

Q. Calling your attention to a service station operated by a Mr. Fredrickson, at 3441 North Vancouver Avenue, Portland, are you familiar with that station?
A. Yes, sir.
Q. And that station, is that a leased out station?

A. Yes, sir.

Q. During this particular period at those Thursday meetings, was there ever any occasion in which anything was said about the merchandise handled by Mr. Fredrickson?

A. Yes, sir.

Q. About when did that occur?

A. As I remember it, probably early in the spring of 1947.

Q. Now, what was said at the meeting about Mr. Fredrickson?

[fol. 2062] Mr. Paradise: And by whom?

Mr. Somerville: Yes, indicate by whom.

The Witness: The discussion came up about Mr. Fredrickson having Gates fan belts in stock. I was asked why he hadn't——

By Mr. Somerville:

Q. By whom?

A. I beg pardon?

Q. You were asked by whom?

A. I was asked by Mr. Bradford why Mr. Fredrickson was stocking Gates fan belts instead of Goodyear fan belts, which was the Richfield approved line of fan belts. And I explained that he had refused to change to Goodyear, that he liked Gates belts better than he did Goodyear's, and had refused, so far as I was concerned, to change to the approved line.

Q. Did he ever tell you why he liked the Gates fan belts?

A. No, sir.

Q. Was there any action taken at that meeting, or any instructions given to you, or anybody else, with respect to Mr. Fredrickson?

A. Yes. Mr. Bradford instructed Mr. Miller, who was the merchandiser, to talk to Mr. Fredrickson. He made an appointment with me to meet him later that morning at Mr. Fredrickson's station, which I did.

[fol. 2063] Q. You did. And what occurred at that time?

A. And Mr. Miller informed Mr. Fredrickson that Gates fan belts were not an approved Richfield product, and that he expected him to change over to Goodyear fan belts.

Q. Did Mr. Fredrickson then begin to purchase the approved products?

A. Mr. Fredrickson O. K.ed for me to change over the sleeve on his Gates fan belts, and fill them in with Goodyear belts, which I did, and sold him Goodyear belts from that time.

Q. With respect to the belts that were in the station, with reference to the Gates belts, did you do anything about them?

A. Yes, sir.

Q. What did you do?

A. It is a common practice among all manufacturers of fan belts to have a blank sleeve, where you can make a change-over, and you take off the sleeve and change the number to the line you are changing to, and that is what I did, sir.

Q. Calling your attention now to a service station operated by Herman Eppard, at 6005 North Alvina Street, in Portland, do you know of this dealer?

A. Yes, sir.

Q. Was he at that time operating a leased out station?

[fol. 2064] A. Yes, sir.

Q. During these Thursday meetings was there ever any discussion about competitive products at that station?

A. Yes, sir.

Q. About when, to your knowledge, was that discussion had?

A. Oh, I would say approximately over a period, over the year of 1947, as I remember it now.

Q. Do you recall just what the nature of those discussions was?

A. The problem there seemed to be batteries.

Q. Specifically, what was the problem?

A. Well, Mr. Eppard,——

Mr. Paradise: May I suggest that we have the conversations, please?

The Court: That is what he is starting to do, to give the conversations.

By Mr. Somerville:

Q. Yes, tell us what was said.

A. The problem there was over batteries. Mr. Eppard had refused to carry Goodyear batteries, and was carrying a competitive line of batteries.

Q. Did you report that to the meeting?

A. Yes, sir.

Q. O. K. What else was said?

A. Well, there was considerable discussion about it, but [fol. 2065] Mr. Eppard seemed to be very determined that he was going to handle a competitive line of batteries, and inasmuch as he had taken a station that had never been, as I understood it, anyway, never had been very much so far as gasoline sales was concerned——

Mr. Paradise: I move that be stricken as obviously the conclusion of the witness.

The Court: You are repeating what he told you?

The Witness: Yes, sir.

The Court: What he said was the reason?

The Witness: You mean Mr. Eppard's reasons?

The Court: Yes.

The Witness: No, sir, not Mr. Eppard.

The Court: What are you starting to tell us?

The Witness: I was starting to tell you the conversation that took place at 12th and Sandy, pertaining to this particular account.

The Court: Who made the statement that you started to tell us about?

The Witness: Mr. Bradford did.

The Court: All right. Go ahead. Tell us what he said.

The Witness: That this station had never done very well on gasoline, and Mr. Eppard had been able to produce very fine gallonage, had a very nice gallonage there, and that [fol. 2066] that perhaps we had better overlook some of the other things, and the matter so far as batteries was dropped at that time.

[fol. 2067] By Mr. Somerville:

Q. Subsequently did you sell Goodyear batteries at this station?

A. No, sir. I never did sell any Goodyear batteries as long as I was distributor.

Q. Calling your attention to a service station operated by Mr. Frank Harding.

A. Yes.

Q. Was there ever any discussion about this station?

A. Yes, sir.

Mr. Paradise: Will you stipulate, counsel, this was also a leased out station?

By Mr. Somerville:

Q. Do you know whether this was a leased out station?

A. I can't say definitely. I don't know whether it was or was not.

Mr. Somerville: It may be stipulated that this was a leased out station.

Mr. Paradise: That it was an L-O station?

Mr. Somerville: Yes, sir.

Mr. Paradise: Thank you.

By Mr. Somerville:

Q. Was there any discussion concerning the allocation of tires to this station?

A. Yes, sir.

Q. This was in a period during some shortage, was it not? [fol. 2068] A. Yes, sir.

Q. What was said about the allocation of tires as far as Mr. Harding was concerned, and by whom? Try to fix who said what to whom.

A. That station came up for discussion at one of our meetings at 12th and Sandy. It was during 1946 when tires were scarce and hard to get. Mr. Harding wanted tires but he didn't want to buy practically anything as far as the other part of the TBA program was concerned. I reported this to Mr. Bradford and Mr. Bradford informed me that unless—that I was to inform Mr. Harding that unless he wanted to program on the rest of the TBA program, why, he was to get no tires. And that was the instructions that I followed out.

Q. Do you happen to know, Mr. Gates, who owned the property there?

A. Well, I understood Richfield did. I don't know that to be a fact, though.

Q. Do you happen to know who owned the service station building?

Mr. DeMartini: I will object to this as being immaterial.

Mr. Paradise: It has been stipulated that this is a Richfield L-O station.

The Court: Yes. I do not think you need to inquire into that.

Mr. Somerville: Yes. I will drop that.

[fol. 2069] Q. Going back now to the arrangements that you had with Richfield and your practice in ordering Goodyear products or authorized products, did you receive commissions on sales of TBA products?

A. Yes, sir.

Q. On all items?

Mr. Paradise: I thought his answer was "no." I can't hear over here.

The Witness: Oh, I am sorry.

The Court: Loud enough so we can hear you.

The Witness: I seem to be getting a little bit hoarse here for some reason. May I have the question again, sir?

Mr. Somerville: Would you read it, Mr. Reporter, please?

(Question read.)

A. On all except one, sir, that I remember.

Q. Who did you receive those commissions from?

A. Well, it was a percentage that we—difference between our cost and what we sold it at.

Q. That would be the difference between what you purchased from Richfield or through the Richfield and the price that you sold it at?

A. Yes, sir.

Q. Were there suggested resale prices?

A. Yes, sir.

Q. And who submitted those to you?

[fol. 2070] A. The factories or Richfield themselves.

Q. What was the one item you did not receive a commission on?

A. Some bug spray.

Q. And that bug spray, was that an item that you were told to handle?

A. Yes, sir. We were not——

Q. By whom?

A. They insisted that we handle it.

Q. By whom?

A. Mr. Bradford, or I don't believe Mr. Bradford was branch manager at that time. I believe it was Mr. Cresswell that was branch manager at that time.

Q. And about when would that be?

A. 1947, I believe it was, or '48. I am not too sure.

Q. Did he say anything with respect to whether the service stations handling Richfield gasoline would be required or not required to take this merchandise?

A. I don't quite understand you.

Q. Did he say anything about pushing the sale? Did he say anything about disposing of it to Richfield stations?

A. Well, we didn't do the selling of the spray. The Richfield merchandisers were the ones that did the selling of that when they first came out with it. Mr. Bradford definitely——

[fol. 2071] Mr. Paradise: You have answered the question.

Mr. Somerville: Wait a minute. "Mr. Bradford definitely"—finish that out.

A. Mr. Bradford definitely stated at 12th and Sandy that every Richfield station in the City of Portland was going to have it and, to my knowledge, they all did. All we did was deliver it, sir.

Q. Mr. Gates, did you have a warehouse?

A. Yes, sir.

Q. In which you kept certain stock on hand?

A. Yes, sir.

Q. Did anybody from Richfield ever come out to your place of business and look over that stock?

A. Yes, sir.

Q. Who?

A. Mr. Foster and Mr. Buck, his successor.

Q. And how frequently did they do that?

A. Oh, whenever they were in Portland, which usually was every month or six weeks.

Q. Was there ever any discussions involving the stock that you had there?

A. Yes, sir.

Q. And about when did such discussions occur?

A. Well, at any interval that they happened to be there, if I happened to have merchandise in the warehouse that had not been purchased either from Goodyear or Rich-
[fol. 2072] field I was open to some very severe criticism from particularly Mr. Buck.

Q. What would he say?

A. Well, why hadn't I bought it through Richfield? After all, I was a TBA distributor and I was expected to buy those things from Richfield, not some place else.

Q. Did he give you any instructions about whether or not you could sell them to service stations in your territory?

A. No. Most of them were approved items.

Q. I mean the non-approved items?

A. Well, yes. He didn't like for me to sell anything that wasn't an approved item to any Richfield station.

Q. Did you at any time during that period here, as authorized TBA distributor, stock items that were directly competitive to some items approved by Richfield? For example, did you ever stock such items as tires, batteries, fanbelts, battery cables, spark plugs, or the common accessories which were competitive to Goodyear brands or approved brands, such as Purolator oil filters, and tell us what the situation was there?

A. I did.

Q. Did you have any conversations with anybody concerning that practice?

A. Yes, sir.

[fol. 2073] Q. With whom?

A. Mr. Buck.

Q. When?

A. I know in 1948.

Q. What did he say?

A. Well, he objected to it.

Q. Calling your attention to a service station operated by Mr. Bowe and Daugherty—I think they are partners there—8110 North Lombard Street, Portland, Oregon, are you familiar with that station?

A. Yes, sir.

Q. Do you happen to know whether that was a new station?

A. Yes, sir.

Q. Do you know when it opened up?

A. Yes, sir.

Q. When?

A. I believe in October, September or October of 1948.

Mr. Somerville: May the record show that that was a leased out station and that Mr. Bowe was the man who testified yesterday?

Mr. DeMartini: So stipulated.

By Mr. Somerville:

Q. Did you supply this station with its initial stock of approved items?

A. Yes, sir.

[fol. 2074] Q. In supplying it did you supply any non-approved items?

A. Yes, sir.

Q. What were those items?

A. As I remember it now, some brake fluid, some mufflers and tail pipes.

Q. Did you discontinue voluntarily your distributorship?

A. No, sir.

Q. What were the circumstances of your leaving the distributorship?

A. Mr. Buck, from Seattle, and Mr. Mark Anderson, who was the Portland branch manager at that time, came out to my place of business.

Q. Was this approximately at the same time that you made these sales to Bowe and Daugherty?

A. Yes, sir.

Q. What was said? What transpired?

A. Well, they just came out to my place of business and asked me if I would go out and have a cup of coffee, which

we did, and during the process of having our coffee Mr. Buck informed me—the way he said it was that the powers that be had decided that there should only be one TBA distributor in the City of Portland. And I asked him if that meant I was out and he said, "yes," that it did.
[fol. 2075] Q. When were you to go out?
A. As of right then.
Q. Was anything said in those discussions concerning sales you made to the Bowe Daugherty station?
A. Yes, sir, it was discussed.
Q. What did they say?
A. They asked me why that I had sold them a competitive brand of brake fluid.
Q. Was there anything said about your having non-approved stock in your warehouse?
A. Well, they never had approved of that.
The Court: When they gave you notice—a very short one at that—did they tell you why? Did they tell you whether your failure to limit yourself to items, and allowing stations to buy non-approved items had anything to do with the decision to give the entire territory to one man?
The Witness: Not directly, your Honor.
The Court: Not directly. All right.

By Mr. Somerville:

Q. How much investment did you have in the stock, Mr. Gates.
A. As I remember it now, some twelve or fourteen thousand dollars.

Mr. DeMartini: I will object to this as immaterial, your Honor. This has no bearing on the case.
The Court: Well, not a direct bearing. Go ahead. He [fol. 2076] has already answered it. It may remain. I do not want you to go into any details.
Mr. Somerville: All right. I do not desire to.

Q. What did you do after that? Did you get into another business or what?
A. Yes, sir.
Q. What was the nature of your business after that?
A. The business that I am in today. I handle accessories,

some accessory lines. I major in parts, machine shop service to other garages and service stations in Portland.

The Court: What do you call your business?

The Witness: Gates Auto Supply.

By Mr. Somerville:

Q. What products——

The Court: I do not think you need to go into that.

By Mr. Somerville:

Q. Did you acquire additional stocks then after the termination of your distributorship?

A. Yes, sir.

Q. After you were terminated as a TBA distributor did you then make an effort to sell some of the accounts of Richfield, the stations that were in your territory as a TBA distributor?

A. Yes, sir.

Q. Calling your attention to a station operated by Fred Erz, 630 Northeast Union Avenue in Portland, did you call on this station?

A. Yes, sir.

[fol. 2077] Mr. Paradise: Mr. Somerville, may I ask that you delay your examination for one moment? Is Mr. Gates mentioned as one of the competitor suppliers in the interrogatories?

Mr. Somerville: Yes, sir. I thought I had notified you to that effect.

(Counsel conferring privately.)

The Court: All right.

Mr. DeMartini: Go ahead.

Mr. Somerville: With respect to the station operated by Mr. Erz, is it stipulated it is a leased out station and was during the time?

Mr. DeMartini: So stipulated.

By Mr. Somerville:

Q. Did you later contact Mr. Erz after your termination with respect to his purchasing any products?

A. Yes, sir.

Q. Did you attempt to sell him any particular products?

A. I attempted to sell him Gates fan belts which I had taken on after the termination of the TBA contract with Richfield.

Q. Did Mr. Erz buy these fan belts?

A. No, sir.

Q. Did he say anything about his desire to buy them?

A. Yes, sir.

Q. What did he say?

[fol. 2078] A. He said he would like to handle Gates fan belts but he was not allowed to because it was not an approved Richfield TBA product.

Q. Have you been on friendly terms with Mr. Erz?

A. Yes, sir.

Q. Mr. Herman Eppard, at 6005 Albino in Portland, did that gentleman have a service station handling Richfield products at that time?

A. Yes, sir.

Mr. Somerville: May it be stipulated this was an L-O stations?

Mr. Paradise: Yes, that this was one of Richfield's L-O stations.

[fol. 2079] By Mr. Somerville:

Q. Mr. Gates, calling your attention to this station now, did you make an effort to sell any products at this station?

A. Mr. Eppard's station?

Q. Yes.

A. Yes, sir.

Q. What were the circumstances of your calls at that station?

A. Well, we endeavored to sell him fan belts, and met with about the same circumstances we met with Mr. Erz.

Q. Did you notice anything with respect to batteries at that station?

A. I didn't quite get the point.

Q. I say, was there any condition concerning batteries at this station?

A. At Mr. Eppard's?

Q. Yes, sir.

A. You mean before or after—when I was a distributor, or afterwards?

Q. Well, did you make any effort to sell batteries at this particular visit?

A. Not at that particular time, I didn't, no, but I did at a later date.

Q. How much later?

A. Oh, I would say several months. Probably in the [fol. 2080] early part of 1949.

Q. Did you sell him any batteries?

A. No, sir.

Q. Did he say why?

A. Because he wasn't allowed to handle a competitive make battery, and finally was convinced he should handle Goodyear batteries.

Q. Was there any particular reason for your trying to sell him batteries at that time?

Mr. Paradise: I object to that as immaterial. I will withdraw the objection.

The Court: Well, I will sustain it now. I don't like it either.

By Mr. Somerville:

Q. Did he indicate why he preferred other brands of batteries?

A. I don't remember about that, sir.

Q. Calling your attention to Bowe & Daugherty station, that you referred to earlier, did you go back to that station?

A. Yes, sir.

Q. Did you attempt to sell any of your products at that time?

A. Yes, sir.

Q. At what time did you go back there?

A. Well, my salesman made regular weekly calls on all [fol. 2081] of these stations.

Mr. Paradise: Now, I move that that be stricken unless the particular stations are identified.

By Mr. Somerville:

Q. Let's confine your testimony here to any you made yourself to this service station after the termination of your distributorship. Did you make a personal call?

A. Yes, sir.

Q. Did you endeavor to sell some products there?

A. Yes, sir.

Q. What products did you try to sell?

A. I don't remember exactly now what I did attempt to sell, that is, what particular line I attempted to sell.

Q. Whom did you talk to there,—Mr. Bowe or Mr. Daugherty?

A. Why, to both of them. I talked both to Mr. Bowe and to Mr. Daugherty.

Q. And this is the station you had stocked originally?

A. That's right.

Q. What did they say about buying your merchandise?

A. No, that they were buying from Mr. Radke, the Richfield TBA distributor.

Q. Did they indicate why they would not buy from you, other than that?

A. Well, they said they weren't buying from anybody [fol. 2082] else but him.

Mr. Somerville: I think that will be all.

Cross-examination.

By Mr. DeMartini:

Q. What was the period that you were a TBA distributor at Portland, again?

A. Well, as I remember the dates, from approximately the first part of '43 until October, 1948.

Q. What was the manner of your approach to a service station in the sale of your products?

A. Well, now, do you mean——

Q. I mean, what was your everyday routine of business.

A. Do you mean, did we attempt to so-call high-pressure them, or sell them something?

Q. Well, you tell me.

A. Well, my method was to endeavor to sell them their needs, not in any way to high-pressure them at all.

Q. You bought these products from Richfield, and, in turn, sold them; is that correct?

A. That's correct.

Q. In other words, you solicited business wherever you could get it?

A. That's right.

Q. Did you sell products to stations other than those [fol. 2083] handling Richfield products?

A. Yes.

Q. How much of your business was to stations other than Richfield stations?

A. Oh, I would say approximately 80 per cent probably.

Q. I didn't get that 80 per cent. Was that to Richfield stations?

A. To other than Richfield stations.

Q. To other than Richfield stations?

A. Yes, sir.

Q. So that only 20 per cent was to Richfield stations?

A. That's right; approximately.

Q. With respect to the Richfield stations to whom you sold or attempted to sell, and with whom you were unsuccessful, you made no effort to tell them that they had to buy, or to instruct them or notify them that they would be dispossessed from their station if they wouldn't buy?

A. No, sir.

Q. So you just fulfilled the capacity of a salesman, insofar as they are concerned?

A. That's right.

Q. Did you at all times sell only the authorized line?

A. That's correct.

Q. You did carry other lines?

A. That's correct.

[fol. 2084] Q. And did you sell to all types of Richfield stations within the area?

A. Yes, sir.

Q. Now, you have testified as to certain discussions at these meetings with respect to Fredrickson, Eppard, Hardy, and Daugherty. Do you recall any discussions with them respecting any other L-O operator?

A. No, I don't, sir.

Q. You don't recall any discussions with respect to any other Richfield dealer?

A. Not any specific one, no, sir.

Q. When Mr. Bradford stated in these meetings that he would check out every operator who didn't handle the approved merchandise, it was your understanding he was referring to the L-O operators; is that correct?

A. Yes, sir.

Q. You stated that you made a commission on these sales. That is not strictly correct, is it? You bought the products,——

A. That's right.

Q. —and resold them. So what you refer to as a commission was your profit——

A. That's right.

Q. As between the purchase and sales price?

A. Yes.

[fol. 2085] Q. And many of these articles were what is commonly referred to as fair traded, so that you had to resell them at the price designated by the manufacturers?

A. Yes, sir.

Mr. Somerville: I object to that.

Mr. DeMartini: You brought up the matter yourself.

The Court: Go ahead.

By Mr. DeMartini:

Q. Is that correct?

A. You mean pertaining to the commissions, sir? Or the fair trading?

Q. That is correct.

A. Yes, sir.

Q. You stated that you yourself did not sell the bug spray?

A. No, sir.

Q. Was that sold by the merchandisers?

A. Yes, sir.

Q. Now, with respect to your deal with Richfield, you had no contract of any nature at all; is that correct?

A. No written contract, no.

Q. What was your oral contract?

A. The oral contract was just as I explained a while ago, that I would be a TBA distributor provided I would stock TBA merchandise.

Q. There was no term fixed?

[fol. 2086] A. No, sir.

The Court: When you were checked out, or maybe you do not apply those words "checked out" to a high position like yours, they gave you the inventory value of their merchandise, didn't they?

The Witness: No, sir.

The Court: You mean you kept your stock? You kept the Richfield stock?

The Witness: Your Honor, you mean the Richfield Oil Company gave me what my investment was in the stock?

The Court: In the stock that you had taken from them.

The Witness: No.

The Court: Oh, they did not. They let you dispose of it as best you could, is that it?

The Witness: Well, I forced their hand, and they made arrangements with the other TBA distributor to take it off of my hands.

The Court: I see. I just wanted to know how you were closed out.

By Mr. DeMartini:

Q. Wasn't it true, Mr. Gates, that there was some dispute between you and Mr. Radke as to the division of Portland?

A. Yes, sir.

Q. And that was one of the reasons which led up to the, say, the termination of your distributorship?

[fol. 2087] A. No, sir.

Q. That was not one of the reasons?

A. No, sir.

Q. Wasn't it true that this station of Bowe & Daugherty was more or less on the borderline between your two territories?

A. No, sir.

The Court: Did you ever have any conversations as to that station, except as to allowing non-approved items?

The Witness: Yes, sir.

The Court: What was that?

The Witness: They wanted to know why I had sold so-called competitive items.

The Court: I don't think you understood my question. Did they ever talk to you about this not being in your territory, as indicated by Mr. DeMartini in his question?

The Witness: No, sir. No, sir.

The Court: All right.

By Mr. DeMartini:

Q. When your distributorship was terminated, did you sell your stock, or part of your stock to Radke; is that correct?

A. That is correct.

Q. And it is also true that of your business 80 per cent of it was to non-Richfield stations; is that right?

A. That's right.

[fol. 2088] Q. You are now in business again to a limited extent as a TBA distributor, at least you call on service stations?

A. Yes, sir.

The Court: But he has a broader field.

By Mr. DeMartini:

Q. But within that field there is the more limited field of the TBA distributor; is that correct.

A. That's right.

Q. You do sell service stations within the Portland area?

A. That's right.

Q. And you do sell in competition with Mr. Radke now; is that correct?

A. Yes, sir.

Q. Do you sell any Richfield stations?

A. Yes, sir.

Mr. DeMartini: That is all.

The Court: Any redirect?

Redirect examination.

By Mr. Somerville:

Q. With respect to the division of territory, you testified you had some dispute. The original understanding, as I understood your earlier testimony, was that you were to have 50 per cent of the stations. Did you have 50 per [fol. 2089] cent?

A. No, sir.

Q. Did you have anywhere near 50 per cent?

A. No, sir.

Q. And you sold to the accounts——

Mr. DeMartini: I will object to this line of testimony, your Honor.

Mr. Somerville: That is all.

The Court: All right.

By Mr. Somerville:

Q. Not all of your items were fair traded, were they?

A. No, sir.

Mr. Somerville: That is all.

(Witness excused.)

The Court: We will take a short recess.

(A short recess was taken.)

[fol. 2090] The Court: All right.

Mr. Somerville: If the court please, we would like to recall Mr. Gates for another question or two on redirect in connection with a point or two on cross.

The Court: All right.

Bert W. Gates (Recalled).

Redirect examination.

By Mr. Somerville:

Q. Mr. Gates, in response to a question by Mr. DeMartini as to whether or not you were selling any Richfield

accounts your answer was "yes." Would you now tell the court whether you were making very many sales to Richfield accounts?

A. Very few.

Q. What type of sales are you making?

A. Well, about the only chance that we have to sell them——

Mr. Paradise: I submit that that question is ambiguous and vague.

The Court: Yes.

By Mr. Somerville:

Q. Specifically, what are the products and the brands that you are primarily able to sell to stations handling Richfield gasoline?

A. Purolator oil filters, Champion spark plugs, Max polish, Warner products. In other words, they are ap- [fol. 2091] proved TBA items that are approved by Richfield.

Q. Is there any marked identification on approved merchandise to indicate its source?

A. Not to my knowledge, no.

Mr. Somerville: That is all.

Mr. DeMartini: No questions.

The Court: All right, step down. Call your next witness.

Mr. Somerville: The Government calls Mr. Hurst.

James W. Hurst, called as a witness by the plaintiff, being first sworn, was examined and testified as follows:

The Clerk: What is your name?

The Witness: James W. Hurst.

Direct examination.

By Mr. Somerville:

Q. What is your name, sir?

A. James W. Hurst.

Q. And where do you reside?

A. Portland.

Q. What business are you in at the present time?

A. Insurance.

Q. Have you ever been a lessee of a service station from the Richfield Oil Corporation?

A. I have.

Q. When did you enter into such a lease?

[fol. 2092] A. In July of 1945.

Mr. Somerville: May it be stipulated, counsel, that Mr. Hurst entered into a lease on Form 542, print date 11-44, bearing date July 20, 1945, and a subsequent lease on Form 542, print date 11-44, dated March 24, 1946?

Mr. DeMartini: So stipulated.

By Mr. Somerville:

Q. Where was the location of this station?

A. 1237 Southeast Hawthorne.

Q. Who turned over the premises to you?

A. Mr. Miller and Lalande, as I remember.

Q. Who were these gentlemen?

A. They were merchandisers for Richfield.

Q. Were they the men that you dealt with in negotiation of the lease?

A. Yes.

Q. And at the time that the station was turned over to you did you invest anything in the station?

A. Did I invest anything?

Q. Invest anything in the station.

A. Yes.

Q. What was your investment?

A. 1300 approximately.

Q. What did that include?

A. Well, that was for stock of merchandise that was on [fol. 2093] hand.

Q. At the time the lease was negotiated was there any mention made of 24-hour termination clause?

A. No.

Q. At the time that you were installed by Mr. Lalande and Mr. Miller was there anything said about what products you should handle?

A. No, not at that time.

Q. Were there any conversations with Richfield representatives subsequently?

A. Well, after my lease came through—it was approximately a month later—I signed a lease on it, why, then after that lease was signed, why, then I was told that I would be—I was supposed to handle only approved Richfield products, their TBA approved products and, of course, Richfield oil and gasoline.

Q. Calling your attention to Champion spark plugs, are those approved items?

A. Yes.

Q. Who is your authorized TBA distributor?

A. Ed Radke.

Q. Did you purchase spark plugs from Mr. Radke?

A. At times, yes.

Q. Was there ever any situation where you did not purchase them from Mr. Radke?

[fol. 2094] A. Yes. Along in—oh, I would say February and March of 1946, I know I made an order in the middle of the week for several things, including plugs, and they were not delivered. They were supposed to be delivered on a Friday, and Saturday being usually a big day for us, why, when this merchandise had not been delivered, why, then I had to go out and buy elsewhere on the orders that I had. I was completely out of plugs, a certain type of plugs, at that particular time.

Q. Where did you buy these plugs?

A. I believe from Colliers' at that particular time.

Q. What brand of plugs were they?

A. Champion. They were an approved brand.

Q. Subsequently did any incident occur concerning your purchase of these plugs?

A. Well, yes. I told the—I had a fellow operating the station for me. I bought the station as an investment and he was operating it for me. I told him when Radke came through with that delivery to refuse acceptance of that merchandise because I had already bought the things that I did need. So on Monday, why, he brought them out for delivery and a couple of days later, why, I was called into Mr. Bradford's office, who was the branch manager, and

called in by Armand Lalande, who was one of the merchandisers, to appear in Bradford's office the following morning.

[fol. 2095] Q. And did you appear?

A. Oh, yes, I did.

Q. What, if anything, did Mr. Bradford say? Was there anybody else present?

A. Mr. Lalande and Mr. Bradford.

Q. What, if anything, was said by either of these gentlemen concerning these spark plugs?

A. Well, they told me that I should buy strictly from Radke, from no one else, and that if I didn't, why, I would be dumped out within 24 hours.

Q. Were they aware that you had turned back the order from Radke?

A. Yes, I think that is why it was brought up.

Q. After that incident did you buy spark plugs from outside sources?

A. Oh, yes, various other places.

Q. Did you openly display these?

A. Yes.

Q. Were they also Champion spark plugs?

A. Entirely.

Q. From whom did you buy these spark plugs?

A. I bought from Gunn & Co. and from Wynn-Hart.

Q. Was there any particular advantage to you in handling these plugs from a source other than the authorized TBA distributor?

[fol. 2096] A. Yes. I was able to buy them in any small amount, even, 29 cents, where I would have to pay 36 for the same plug from Radke.

[fol. 2097] Q. Was there ever any situation in which Mr. Radke was unable to supply you with batteries?

A. Oh, yes, the battery shortage came along in '46.

Q. At that time did you make attempts to get batteries from other sources?

A. Oh, I did, yes.

Q. Subsequently did you receive any communication from anyone concerning the authorized batteries being available?

A. Well, late in '46, yes, when batteries did become available, and I was told by Radke that I should dispose of the

batteries I had in stock and stock from there on out only Goodyear batteries.

Q. Was there any particular advantage to you in handling any competitive batteries?

A. No, I wouldn't say any advantage there. I was able to get them at times previous to that, when they were not available, through Radke.

Q. Calling your attention to Green Stamps, stamps that were given to customers, did you handle those stamps?

A. For a while, yes, when I first went into business.

Q. Did you then discontinue them?

A. I did.

Q. Was there anything said to you about—to you by any Richfield representative concerning your handling those [fol. 2098] stamps?

A. Well, after I dropped them, they were down on my neck all the time about starting to give them away again. They were after me continually.

Q. Did you have to pay for these stamps?

A. Oh, yes.

Q. How much did you have to pay for them?

A. They came in books of $500 worth of stamps. It cost me $15 per book.

Q. With respect to such items as light bulbs, did you get any light bulbs from any unauthorized source?

A. Oh, yes.

Q. Were they the same brand?

A. The same brand, approved brand.

Q. Was there any price advantage on those?

A. A cheaper price.

Q. Did you handle any competitive lubricating oil?

A. No.

Q. Was there ever any conversation with any representative of the Richfield Oil Corporation concerning your handling of outside oils?

A. Well, I was told, you know, after I had signed my lease, that I shouldn't handle any competitive brand other than TBA approved, or, other than Richfield oil and gas.

Q. Did you have any customers that called for it?

[fol. 2099] A. Occasionally, yes.

Q. Did you desire to handle any outside oil?

A. Well, I would have liked to have done so, but I didn't.

Q. Calling your attention now to oil filters, did you handle any outside oil filters at that time?

A. Yes.

Q. What brand of oil filters?

A. Fram, in addition to Purolator.

Q. Did you have any particular calls for Frams?

A. Yes.

Q. Was there any particular price advantage on Frams?

A. Well, I wouldn't say there was a price advantage because Radke, as a TBA distributor, did not handle them. So I don't know if there would have been any price advantage on Fram or not. It was simply for customer convenience.

Q. Mr. Radke did handle the Purolators, didn't he?

A. Yes, sir. I could buy Purolators much cheaper than I could buy them from Radke.

Q. Did you leave the station voluntarily?

A. Yes I did.

Q. At the time you took over the station, did you purchase tools and equipment?

A. Some.

Q. At the time you left the station, did you sell your tools [fol. 2100] to anyone?

A. I sold them to the man who bought me out, Mr. Severson.

Q. Was there anything said—who, if anybody from Richfield, supervised the inventory at the time you left the station?

Mr. Paradise: That assumes a fact not in evidence, and a conclusion of the witness.

Mr. Somerville: That is all right, counsel. I will rephrase the question.

By Mr. Somerville:

Q. At the time you left the station, did anybody from Richfield say anything to you about your ability to sell these tools and equipment to the new operator?

A. Yes, Mr. Bill Carpenter.

Mr. Paradise: I object. Just a moment, Mr. Hurst.
The Witness: O. K.
Mr. Paradise: He asked if these were conversations.
The Witness: Yes.

By Mr. Somerville:

Q. With whom were those conversations?
A. Bill Carpenter, a Richfield merchandiser.
Q. About when was it you left the station, now?
A. That was the 1st of May, 1948.
Q. What did Mr. Carpenter say?
[fol. 2101] A. Well, Mr. Carpenter told me that the fellow, whoever purchased my stock there, that Richfield would only require him to buy those things that were TBA approved, that hand tools and other equipment that I had bought I would have to sell on my own.

Mr. Somerville: I think that is all.

Cross-examination.

By Mr. DeMartini:

Q. How did you become interested in this station, Mr. Hurst?
A. Through a friend of mine.
Q. What were you doing prior to that?
A. I had charge of installation of electric cable in Vancouver.
Q. To whom did you talk first with respect to this station, with which Richfield employee?
A. Ken Miller.
Q. When was that conversation?
A. That was in July, of 1945.
Q. What did you talk about?
A. I beg pardon?
Q. What was the conversation?
A. Well, I was told that the station was for sale, and he told me the type of money that could be made in this [fol. 2102] particular station.
Q. Did you discuss at all the nature of the operation of the station?

A. No, I wouldn't say so.

Q. Well, did you discuss at all the terms of the lease?

A. Nothing more than—in fact, I don't think that was discussed.

Q. Well, what did you talk about? Anything at all?

A. Yes.

Q. All right. Tell me what was said at the time.

A. He was telling me that it was a good location, that there would be money made there, it was a good place for an investment, a good business location.

Q. You were in business before, weren't you?

A. No.

Q. But you worked for different companies, represented different companies?

A. Yes, that's right.

Q. You were familiar with business procedures,—certainly, with contracts and leases, weren't you?

A. I didn't understand you, sir.

Q. You were familiar with the terms of contracts and leases, and the fact that leases have certain terms and provisions?

[fol. 2103] A. Oh, yes, definitely.

Q. You weren't interested at all in the nature of the tenure in the station?

A. Well, I was interested, yes.

Q. But you didn't ask about it?

A. I don't remember that I did.

Q. Well, what did you expect you were going in there on? On what kind of a term?

A. Well, the term would be favorable both to the lessor and to myself.

Q. But there was no discussion of any term at all?

A. No.

Q. Isn't it true that at that time you were shown this lease, which you subsequently signed (handing document to witness)?

A. I don't think so.

Q. So you just took your station with your eyes closed, and you were not interested in the length of time that you were going to occupy the station?

A. I was told orally.

Q. You were told orally?

A. The length of time that it would be. In other words, as long as I operated the station favorably, why, I could keep it.

Q. As long as you operated favorably, you could keep [fol. 2104] it?

A. Yes, that's right.

Q. So you were told that?

A. Definitely.

Q. In this original discussion didn't Richfield show some interest in your past experience, in your character and personality, and they were interested in leasing it to you, were they not?

A. That I don't know, whether they were or not.

Q. Weren't they interested in your operating the station?

A. I don't think so; not particularly me. This man wanted out of the station, and I think they were happy to get anyone that could purchase the merchandise at the time.

Q. What was the $1300 investment used for?

A. That was mostly merchandise. There was some, a Coca-Cola stand and a battery charger, and such as that, that were included in it.

Q. Isn't it true that one of the matters of controversy during the time of your tenure of that station was that you did not operate it yourself?

A. Yes.

Q. My notes indicate that you own several race horses and were traveling a lot?

A. Not at that time.

[fol. 2105] Q. But yourself were not present in the station to any great extent?

A. I was present every day from 6:00 o'clock until it closed in the evening, 9:30 or 10:00.

Q. You yourself were present there at all times?

A. I believe so, at those times that I told you.

Q. But, I mean, at any time were you not present there during——

A. Yes, I was working in Vancouver all during the day, with the exception of Saturday and Sunday, and at those times I was in the station 12 to 14, and sometimes 16 hours.

Q. So that on Saturday and Sunday you were there, but not the rest of the week?

A. I was there practically all day every Saturday and Sunday, and four or five hours the other days of the week.

Q. But there was objection to the fact that you were not operating it in person, wasn't there?

A. That's right.

Q. When this lease was finally presented to you for signature, did you have any discussion?

A. No.

Mr. DeMartini: That is all. Wait just one moment.

By Mr. DeMartini:

Q. Maybe I don't have this matter clear. Do I understand that you have stated that you did not sign this lease [fol. 2106] until after you went into possession of the station?

A. Yes, that's right. It didn't come up for some time later.

Mr. DeMartini: That is all.

[fol. 2107] Mr. Somerville: May it be stipulated, counsel, that that lease is on the usual form and contains no unusual provisions?

Mr. Paradise: We do not know what the usual form is to which you are referring, Mr. Somerville.

Mr. DeMartini: I will stipulate.

The Court: All right, it is satisfactory.

Mr. Somerville: We would like to put that in evidence. Mark those for identification. One more question, Mr. Hurst.

The Clerk: 15 and 15-A marked for identification.

(The documents referred to were marked Plaintiff's Exhibits 15 and 15-A for identification.)

Redirect examination.

By Mr. Somerville:

Q. At the time this lease was negotiated was there any oral conversation concerning your personal presence at all times at the station?

A. No. They knew at the time that I was working.

Mr. Paradise. Oh, I move to strike concerning anything they knew.

The Court: Read the question.

(Question read.)

A. Yes.

By Mr. Somerville:

Q. You mean there was. What was said? First of all, [fol. 2108] who made that statement, Mr. Lalande or Miller?

A. Both.

Q. And what was said?

A. I told them that I was working. They knew that I was working. I told them that I was working at Vancouver and that I was buying this station for this friend of mine to operate.

Q. Was there anything further said?

A. I beg pardon?

Q. Was there anything further said at that time?

A. No.

Mr. Somerville: That is all. The Government offers into evidence 15 and 15-A.

Recross-examination.

By Mr. DeMartini:

Q. Notwithstanding the fact that you told him that you were buying this station for a friend to operate, you did spend considerable time at the station yourself?

A. That is right.

Q. What gave rise to the dispute over the fact that you were not spending enough time there?

A. I don't know, unless it was the deal—it never came up until the morning that I was called into Bradford's office because I had refused to accept this order of merchandise from Radke. There was never a word said about that from [fol. 2109] the time that I first went into the station until February or March of 1946.

Mr. DeMartini: That is all.
The Clerk: Are these two exhibits admitted, your Honor?
The Court: Yes.
The Clerk: That is 15 and 15-A in evidence.

(The documents referred to were marked Plaintiff's Exhibits 15 and 15-A and received in evidence.)

The Court: Have you finished with this witness?
Mr. DeMartini: I have, your Honor.
Mr. Dixon: Just a moment, Judge.
The Court: All right.

Redirect examination.

By Mr. Somerville:

Q. Mr. Hurst, I call your attention to Government's Exhibit 15 which is the lease of July 20, 1945, and then to Government's Exhibit 15-A which is the lease of March 24, 1946. What was the reason, if you know, for the execution of the subsequent lease?

Mr. Paradise: Well, I object to the question, not primarily on the ground that it is improper redirect, which I think it is, but I think the question, if permitted, should call for conversations.

The Court: Yes.

Mr. Somerville: Yes, I meant to develop that.

[fol. 2110] Q. Did you have any conversations concerning the negotiation of a new lease?

A. Not that I remember about. I don't remember. I will tell you—yes, I can. I can tell you what the deal was, now. It seems to me——

Q. Who were the conversations with?

A. I want to get this date, March of 1946. That must have been—I am not positive. I would say Lelande. It seems to me that the lease that Richfield had with the——

Mr. Paradise: Now, I will object to any volunteered statements of the witness.

By Mr. Somerville:

Q. Yes, just say what was said.

A. Well, they told me that the lease had expired that Richfield had with the actual owner of the station and that I would have to sign a duplicate lease because it was at the end of that period of time, five years or whatever it was that they had, that I had to sign a new lease at that time and that the leases are identical.

Mr. Somerville: Okay. That will be all.

Mr. Paradise: May I see the leases before Mr. Hurst leaves the stand?

The Court: Just a minute.

The Witness: Pardon me.

The Court: There seems to be the foundation for a lot of afterthoughts. You have to stay until they are through. [fol. 2111] The Witness: Yes. Okay, sir.

Mr. Paradise: No further questions.

Mr. Somerville: No further questions.

Mr. Dixon: You are excused, Mr. Hurst. Thank you very much.

Mr. Somerville: The Government asks that the document which is a memorandum addressed to W. T. Dinkins from E. Kirby, dated March 28, 1945, be marked for identification.

The Clerk: So marked.

The Court: All right.

The Clerk: As Government's Exhibit 16.

(The document referred to was marked Plaintiff's Exhibit 16 for identification.)

Mr. Somerville: In connection with Mr. Gates' testimony the Government asks that this be introduced into evidence.

Mr. Paradise: I object to this offer on the ground of immateriality.

The Court: What is it? Then I will have to look at it.

Mr. Somerville: Mr. Gates testified concerning that station by Mr. Harding.

The Court: What is your objection, Mr. Paradise?

Mr. Paradise: Mr. Gates' testimony was concerned en-